Official Gazette

REPUBLIC OF THE PHILIPPINES

EDITED AT THE OFFICE OF THE PRESIDENT, UNDER COMMONWEALTH ACT NO. 638
ENTERED AS SECOND-CLASS MATTER, MANILA POST OFFICE, DECEMBER 26, 1905

VOL. 50 MANILA, PHILIPPINES, JULY 1954 No. 7

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MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 34

DECLARING THAT PORTION OF THE BENGUET ROAD (KENNON ROAD) FROM KLONDYKE'S SPRING TO CAMP SIX WITHIN THE MOUNTAIN PROVINCE AS TOLL ROAD AND FIXING SCHEDULE OF FEES FOR THE COLLECTION OF TOLLS THEREON

By virtue of the powers vested in me by section one of Act Numbered One thousand nine hundred and fifty-nine, as amended by Acts Numbered Two thousand four hundred and fourteen and three thousand five hundred and forty-two, I, Ramon Magsaysay, President of the Philippines, do hereby declare that portion of the Benguet Road (Kennon Road) from Klondyke's Spring to Camp Six within the Mountain Province as toll road and direct that the following tolls be collected thereon:

(*a*) Motorcycles, each	₱0.20
(*b*) Automobiles, cars, jeeps, auto-calesas, pick-ups, and station wagons, each	2.00
(*c*) Automobile trailers with two wheels not exceeding 1,000 kilos in weight, each	3.00
(*d*) Motor trucks, passenger (regardless of capacity and number of passengers without exception), each	5.0
(*e*) Motor trucks, trailers and tractors, (freight), each:	
6,000 kilos or less gr city	
6,001 kilos or mor ty	

Provided, That all buses a
on the Manila-Baguio ru ll
toll charge of ₱5 per

(*b*) Motor vehicles of all United States Government agencies in the Philippines engaged in rehabilitation work.

(*c*) Motor vehicles of the Republic of the Philippines.

(*d*) Motor vehicles of the Philippine Red Cross and relief organizations of the Republic of the Philippines.

(*e*) Privately owned cars of officers and employees of the Republic of the Philippines, whether national, provincial, or municipal, when certified as travelling on official business.

All previous executive orders thereof as well as directives inconsistent herewith are hereby revoked or modified accordingly.

This Order shall take effect on June 1, 1954.

Done in the City of Manila, this 20th day of May, in the year of Our Lord, nineteen hunderd and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 43

CREATING AN EXPROPRIATION COMMITTEE IN THE OFFICE OF THE PRESIDENT TO STUDY REQUESTS FOR EXPROPRIATION OF LANDED ESTATES AND HOME SITES

An Expropriation Committee in the Office of the President f[illegible]he Philippines is hereby created to study requests for [illegible]propriation of landed estates and home sites pursuant [illegible]rovisions of th[illegible]nstitution and of Republic Act [illegible]as amend[illegible]blic Act No. 498. The Com-[illegible] co[illegible]ollowing:

E[illegible] ..... Chairman
..... Member

Done in the City of Manila, this 6th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 44

INCORPORATING THE MUNICIPAL PORT OF LAZARETO IN THE MUNICIPALITY OF CALAPAN WITH THE NATIONAL PORT OF CALAPAN, ORIENTAL MINDORO

WHEREAS, it is necessary to provide the Province of Oriental Mindoro with a port that may be used by shipping throughout the year with certain degree of safety and convenience;

WHEREAS, the Port of Calapan, the principal port of the province, is so exposed to the northeast that during certain periods of the year, when the northeast monsoon is blowing, the vessels calling at this port and the passengers on board are open to much inconvenience and danger;

WHEREAS, there is a pier recently constructed in the port of Lazareto which is close to the Port of Calapan;

WHEREAS, the Port of Lazareto is well protected a[illegible] the northeast winds so that it se[illegible] an auxilia[illegible] for Calapan during the period [illegible] m[illegible]

WHEREAS, there is need tc [illegible] proper administration, oper[illegible]

Done in the City of Manila, this 6th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 45

TERMINATING THE COLLECTION OF TOLLS AT THE GUIMBAL BRIDGE, PROVINCE OF ILOILO

The total cost of the Guimbal Toll Bridge, in the Province of Iloilo, plus interest at the rate of 4 per cent per annum, having been fully recovered, as certified in accordance with the provisions of Act No. 3500, as amended, it is hereby ordered that the collection of tolls at the Guimbal Toll Bridge be terminated.

This Order shall take effect upon receipt of copy hereof by the Provincial Treasurer of Iloilo.

Done in the City of Manila, this 10th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

WHEREAS, under Republic Act No. 601, as last amended by Republic Act No. 1175, foreign exchange used for the importation of rice is subject to the 17 *per centum* excise tax imposed therein;

WHEREAS, section 5(*b*) of Republic Act No. 663 exempts the National Rice and Corn Corporation (NARIC) from the payment of sales and milling taxes and authorizes the President of the Philippines to exempt it from other taxes whenever in his opinion such exemption is in the public interest; and

WHEREAS, the public interest and the people's welfare demand that the NARIC be exempt from the payment of the 17 *per centum* excise tax on foreign exchange for its importation of rice;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, pursuant to the authority vested in me by section 5(*b*) of Republic Act No. 663, do hereby exempt the National Rice and Corn Corporation from the payment of the 17 *per centum* excise tax on foreign exchange used for the payment of the cost, transportation and other charges incident to its importation of rice.

Done in the City of Manila, this 10th day of July, in the year of our Lord, nineteen hundred and fifty-four and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER [illegible]7

CREATING THE [illegible]SS[illegible]

with assistance and guidance in their investment problems and in their dealings with the departments, bureaus, offices, agencies, instrumentalities and political subdivisions of the government, including the corporations owned and controlled by the same;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law and in the interest of the economic development of the Philippines, do hereby create an Investment Assistance Commission which shall be composed of the Administrator of Economic Coordination, as chairman, the Secretary of Finance, the Secretary of Commerce and Industry, the Secretary of Agriculture and Natural Resources, the Governor of the Central Bank of the Philippines, the Chairman, Board of Governors, Rehabilitation Finance Corporation, and the President, Philippine National Bank, as members.

1. The Commission shall have the following powers and functions:

(*a*) To adopt such measures as may be necessary to obtain effective execution of the economic development policies, programs and projects by the departments, bureaus, offices, agencies, instrumentalities and political subdivisions of the government;

(*b*) To implement the declared policy of the government of attracting and encouraging private capital investments in the agricultural, industrial and commercial development of the country;

(*c*) To pass upon proposals of private enterprise for government participation in the establishment of new industries or expansion of existing ones;

(*d*) To promote and encourage the entry of foreign capital; and

(*e*) To conduct hearings and surveys for furthering the economic development of the country.

2. The Commission shall issue such directives as may be necessary to carry out its resolutions. It shall be the duty of all government departments, bureaus, offices, agencies instrumentalities and political subdivisions to execute and comply with said directives and to submit to the Commission such reports thereon as may be required.

3. The Commission shall act and decide all cases brought [illegible] within 30 days from presentation thereof. It shall [illegible] ce a month, [illegible] s often as may be necessary upon [illegible] of the [illegible] of the members thereof or upon

ment, bureau, office, agency or instrumentality of the government, including those of the government-owned or controlled corporations.

6. The Commission shall, from time to time, submit a report to the President of the Philippines on its operation and activities and an annual report at the end of the fiscal year.

Done in the City of Manila, this 13th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 48

DELEGATING TO THE UNDERSECRETARY OF AGRICULTURE AND NATURAL RESOURCES THE POWER TO SIGN PATENTS AND CERTIFICATES

Pursuant to the authority conferred upon me by section 107 of Commonwealth Act No. 141, as amended by Republic Act No. 1172, I, Ramon Magsaysay, President of the Philippines, do hereby delegate to the Undersecretary of Agriculture and Natural Resources the power to sign patents or certificates covering [illegible] not more than one hundred forty-four hectares [illegible]

Done in the City of Ma[illegible] the year of Our Lord, nin[illegible]

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

PROCLAMATION NO. 37

DECLARING THE THIRD WEEK OF SEPTEMBER OF EVERY YEAR AS NATIONAL MENTAL HEALTH WEEK

WHEREAS, sound mental health is necessary to the attainment of individual happiness and efficiency, to the establishment of peace and order, and to the promotion of economic and cultural progress;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, do hereby proclaim the third week of September of every year as National Mental Health Week and designate the Philippine Mental Health Association and the Health Education Association of the Philippines to take charge of the celebration thereof. I call upon all government and non-government entities and all residents of the Philippines to lend their cooperation and support to the observance of the week.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 25th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

[illegible]NCE OF THE PRESIDENT
[illegible]HE PHILIPPINES
[illegible]ANILA

[illegible]THE PHILIPPINES

pines, do hereby declare Wednesday, June 30, 1954, as a special public holiday in the City of Tacloban.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 28th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

PROCLAMATION No. 39

EXCLUDING FROM THE OPERATION OF PROCLAMATION NO. 414, SERIES OF 1931, A CERTAIN PORTION OF THE LAND EMBRACED THEREIN SITUATED IN THE MUNICIPALITY OF PANABO, PROVINCE OF DAVAO, ISLAND OF MINDANAO, AND DECLARING THE SAME OPEN TO DISPOSITION UNDER THE PUBLIC LAND ACT

Upon the recommendation of both the Secretary of Justice and the Secretary of Agriculture and Natural Resources and pursuant to the provisions of sections 83 and 88 of Commonwealth Act Act No. 141, as amended, I hereby exclude from the operation of Proclamation No. 414, series of 1931, a certain portion of the land embraced therein situated in the municipality of Panabo, Province of Davao, Island of Mindanao, and declare the same open to disposition under the provisions of said Act, which portion of land is more particularly described, to wit:

SI–V–1

(Philippine Women's [illegible])

A parcel of land (as shown [illegible] barrio of Ising, municipalit yo[illegible]

ters to point 7; thence W. 470.00 meters to point 8; thence W. 470.00 meters to point 9; thence W. 470.00 meters to point 10; thence W. 337.99 meters to point 11; thence N. 1° 50′ E., 107.28 meters to point 12; thence N. 1° 56′ E., 491.84 meters to point 13; thence N. 0° 36′ E., 461.00 meters to point 14; thence N. 0° 23′ E., 469.26 meters to point 15; thence N. 89° 06′ E., 284.22 meters to point 16; thence S. 89° 48′ E., 333.21 meters to point 17; thence S. 35° 28′ E., 111.25 meters to point 18; thence N. 74° 59′ E., 308.25 meters to point 19; thence N. 73° 02′ E., 249.30 meters to point 20; thence N. 88° 47′ E., 184.38 meters to point 21; thence S. 86° 17′ E., 184.21 meters to point 22; thence S. 69° 23′ E., 251.58 meters to the point of beginning; containing an area of 2,820.217 square meters, more or less. All points referred to are indicated on the plan and are marked on the ground as follows: points 1, 2, 3, 4, 5 and 6, by P. L. S. cylindrical concrete monuments;points 12, 13, 14 and 15, by old B. L. cylindrical monuments; points 16, 17, 18, 19, 20, 21 and 22, by stakes; and the rest, by old P. L. S. cylindrical monuments; bearings true; declination 1° 43′ E.; date of survey, November 25–30, 1953. NOTE: This is lot 5162, a portion of lot 4710, Tagum cadastre 276.

In witness whereof, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 30th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 40

ING THE FIRST WEEK OF AUGUST OF
YEAR CONSERVATION WEEK

vey made by the Philippine
tely 40,000 blind Filipinos

do hereby declare the first week of August of every year as Sight-Conservation Week and designate the Philippine Eye Bank to take charge of the celebration of the Week.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 5th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 41

RESERVING FOR NATIONAL PARK PURPOSES TO BE KNOWN AS "MANILA BAY BEACH RESORT" A CERTAIN PARCEL OF THE PUBLIC DOMAIN SITUATED IN THE CITIES OF MANILA AND PASAY AND THE MUNICIPALITY OF PARAÑAQUE, PROVINCE OF RIZAL, ISLAND OF LUZON

Upon the recommendation of the Secretary of Agriculture and Natural Resources as Chairman of the Commission on Parks and Wildlife, and pursuant to the provisions of section one of Act Nu... Thirty hundred and fifteen, as amended, an... or ... Republic Act Numbered Eight hun... I, Ramon Magsaysay, President of ... hereby withdraw from sale or settl... national park purposes to be know... Resort" under the admini... Parks and Wildlife, subje... be, the following parcel ... situated in the cities of M... nicipality of Parañaque, P... and more particularly de...

Beginning at a point marke... 40° 48′ W., 86.24 meters fr... thence N. 12° 52′ W., 727.26 m... W., 343.48 meters to point 3;...

to point 4; thence N. 21° 36′ W., 224.00 meters to point 5; thence N. 27° 37′ W., 216.00 meters to point 6; thence S. 61° 24′ W., 1,028.00 meters to point 7; thence S. 14° 15′ E., 1,200.00 meters to point 8; thence S. 14° 04′ E., 718.00 meters to point 9; thence S. 9° 02′ E., 1,200.00 meters to point 10; thence S. 8° 00′ E. 344.00 meters to point 11; thence S. 2° 14′ E., 728.00 meters to point 12; thence S. 87° 26′ E., 1,019.99 meters to point 13; thence N. 0° 24′ W., 352.00 meters to point 14; thence N. 7° 06′ W., 1,200.00 meters to point 15; thence N. 6° 36′ W., 867.00 meters to point 16; thence N. 9° 14′ W., 586.42 meters to the point of beginning. Bounded on the North, by Manila Bay; on the east, by Dewey Boulevard; and on the south and west, by Manila Bay. Containing an approximate area of 4,646,612 square meters, more or less.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 5th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL] RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 42

…OKING … PROCLAMATIONS NOS. 422 AND 431, …OTH… OF 1953, AND RESERVING THE …AND EMBRACED THEREIN SIT-…ZON CITY FOR NATIONAL PARK …E KNOWN AS QUEZON MEMO-

… the Secretary of Agricul-…airman of the Commission …ursuant to the provisions … Thirty-nine hundred and …on Two of Republic Act …enty-six, I, Ramon Mag-…pines, do hereby rovoke …, both series of 1953, and …ses to be known as Quezon …stration of the Commission …s of land embraced therein

situated in the District of Diliman, Quezon City, and more particularly described as follows, to wit:

"LT R. P.–3–B–3–A–1 Bsd–10532
(People's Homesite and Housing Corporation)

A parcel of land (lot R. P.–3–B–3–A–1 of the subdivision plan Bsd–10532, being a portion of Lot R. P.–3–B–3–A described on plan Psd–26450, G.L.R.O. Record No. ————, situated in the District of Diliman, Quezon City. Bounded on the NE., by lot R.P.–3–B–3–A–5 of the subdivision plan; on the SE., by lot R.P.–3–B–3–A–4 (East Avenue) of the subdivision plan; on the SW., by lot R.P.–3–B–3–A–6 of the subdivision plan; on the W., by lots R.P.–3–B–3–A–6 and R.P.–3–B–3–A–5 of the subdivision plan; and on the NW., by lot R.P.–3–B–3–A–5 of the subdivision plan. Beginning at a point marked 1 on plan, being N. 0° 26′ E., 554.99 meters from B.L.L.M. 7, Quezon City, thence N. 38° 40′ E., 2.05 meters to point 2; thence N. 37° 12′ E., 2.05 meters to point 3; thence N. 35° 44′ E., 2.05 meters to point 4; thence N. 34° 16′ E., 2.05 meters to point 5; thence N. 32° 48′ E., 2.05 meters to point 6; thence N. 31° 20′ E., 2.05 meters to point 7; thence N. 29° 52′ E., 2.05 meters to point 8; thence N. 28° 24′ E., 2.05 meters to point 9; thence N. 26° 56′ E., 2.05 meters to point 10; thence N. 26° 28′ E., 2.05 meters to point 11; thence N. 24° 00′ E., 2.05 meters to point 12; thence N. 22° 32′ E., 2.05 meters to point 13; thence N. 21° 04′ E., 2.05 meters to point 14; thence N. 19° 36′ E., 2.05 meters to point 15; thence N. 18° 08′ E., 2.05 meters to point 16; thence N. 16° 40′ E., 2.05 meters to point 17; thence N. 15° 13′ E., 2.00 meters to point 18; thence N. 13° 47′ E., 2.00 meters to point 19; thence N. 12° 21′ E., 2.00 meters to point 20; thence N. 10° 54′ E., 2.05 meters to point 21; thence N. 9° 26′ E., 2.05 meters to point 22; thence N. 7° 58′ E., 2.05 meters to point 23; thence N. 6° 30′ E., 2.05 meters to point 24; thence N. 5° 02′ E., 2.05 meters to point 25; thence N. 2° 34′ E., 2.05 meters to point 26; thence N. 2° 06′ E., 2.05 meters to point 27; thence N. 0° 38′ E., 2.05 meters to point 28; thence N. 0° 50′ W., 2.05 meters to point 29; thence N. 2° 18′ W., 2.05 meters to point 30; thence N. 3° 46′ W., 2.05 meters to point 31; thence N. 5° 14′ W., 2.05 meters to point 32; thence N. 6° 42′ W., 2.05 meters to point 33; thence N. 8° 10′ W., 2.05 meters to point 34; thence N. 9° 38′ W., 2.05 meters to point 35; thence N. 57° 37′ E., 185.84 meters to point 36; thence N. 57° 37′ E., 331.38 meters [illegible] point 37; thence N. 57° 37′ E., 324.31 meters to point 38; th[illegible] N. 57° 37′ E., 282.85 meters to point 39; thence S. 37° 50′ E., [illegible] meters to point 40; thence S. 40° 45′ E., 21.87 meters [illegible] 41; thence S. 43° 39′ E., 21.87 meters to point 42[illegible] 33′ E., 21.87 meters to point 43; thence S. 49° 27[illegible] to point 44; thence S. 52° 21′ E., 21.87 meters to [illegible] S. 55° 15′ E., 21.87 meters t[illegible] there[illegible] 21.87 meters to point 47; th[illegible] point 48; thence S. 63° 57′ [illegible] 12° 37′ W., 233.67 meters to [illegible] meters to point 51; thence S[illegible] 52; thence S. 12° 37′ W., [illegible] 15° 19′ W., 1.98 meters to[illegible] meters to point 55; thence [illegible] thence S. 31° 31′ W., 1.98 [illegible] W., 1.98 meters to point 58; [illegible] point 59; thence S. 47° 43′ [illegible] S. 53° 07′ W., 1.98 meters[illegible] 1.98 meters to point 62; ther[illegible] 63; thence S. 69° 19′ W., 1[illegible]

43′ W., 1.98 meters to point 65; thence S. 80° 07′ W., 1.98 meters to point 66; thence S. 85° 31′ W., 1.98 meters to point 67; thence N. 89° 05′ W., 1.98 meters to point 68; thence N. 83° 41′ W., 1.98 meters to point 69; thence N. 78° 17′ W., 1.98 meters to point 70; thence N. 72° 53′ W., 1.98 meters to point 71; thence N. 67° 29′ W., 1.98 meters to point 72; thence N. 62° 05′ W., 1.98 meters to point 73; thence N. 56° 41′ W., 1.98 meters to point 74; thence N. 51° 17′ W., 1.98 meters to point 75; thence N. 45° 53′ W., 1.98 meters to point 76; thence N. 40° 29′ W., 1.98 meters to point 77; thence N. 35° 05′ W., 1.98 meters to point 78; thence N. 32° 23′ W., 162.96 meters to point 79; thence N. 32° 23′ W., 324.31 meters to point 80; thence N. 32° 23′ W., 324.31 meters to point 81; thence N. 32° 23′ W., 331.38 meters to point 82; thence N. 32° 23′ W., 184.01 meters to the point of beginning; containing an area of 986,108.60 square meters, more or less. All points referred to are indicated on the plan and are marked on the ground as follows: points 2 to 34, inclusive, 40 to 48, inclusive and 54 to 77 inclusive, by points of curve and the rest by B.L. concrete monuments; bearings true; declination 0° 50′ E., date of the original survey, December 1910 to June 1911 and that of the subdivision survey, January 16 to 20 and 24, 1951.

Lot R.P.–3–B–4–B–1 Bsd–10532
(People's Homesite and Housing Corporation)

A parcel of land (lot R.P–3–B–4–B–1 of the subdivision plan Bsd–10532, being a portion of lot R.P.–3–B–4–B, described on plan Bsd–10532, G.L.R.O. Record No. ————, situated in the District of Diliman, Quezon City. Bounded on the N., by (North Avenue) lot R.P.–3–B–4–B–9 of the subdivision plan; on the E., by lot R.P.–3–B–4–B–8 of the subdivision plan; on the SE., by lot R.P.–3–B–4–B–8 of the subdivision plan; on the S., by lots R.P.–3–B–4–B–8 and R.P.–3–B–4–B–7 of the subdivision plan; on the SW., and NW., by lot R.P.–3–B–4–B–7 of the subdivision plan. Beginning at a point marked 1 on plan, being N. 0° 56′ W., 670.90 meters from B.L.L.M. 7, Quezon City, thence N. 55° 08′ W., 2.05 meters to point 2; thence N. 56° 36′ W., 2.05 meters to point 3; thence N. 58° 04′ W., 2.05 meters to point 4; thence N. 59° 32′ W., 2.05 meters to point 5; thence N. 61° 00′ W., 2.05 meters to point 6; thence N. 62° 28′ W., 2.05 meters to point 7; thence N. 63° 56′ W., 2.05 meters to point 8; thence N. 65° 24′ W., 2.05 meters to point 9; thence N. 66° 52′ W., 2.05 meters to point 10; [illegible]nce N. 68° 20′ W., 2.05 meters to point 11; thence N. 69° 48′ [illegible]2.05 meters to point 12; thence N. 71° 16′ W., 2.05 meters to [illegible]13; thence N. 72° 44′ W., 2.05 meters to point 14; thence [illegible]12′ W., 2.05 meters to point 15; thence N. 75° 40′ W., [illegible]point 16; thence N. 77° 08′ W., 2.05 meters to [illegible]e N. 78° 35′ W., 2.00 meters to point 18; thence [illegible]2.00 meters to point 19; thence N. 81° 27′ W., 2.00 [illegible]° 54′ W., 2.05 meters to point [illegible]rs to point 22; thence N. 85° [illegible]ce N. 87° 18′ W., 2.05 meters [illegible]2.05 meters to point 25; thence [illegible]t 26; thence S. 88° 18′ W., [illegible] 50′ W., 2.05 meters to point [illegible] to point 29; thence S. 83° [illegible]e S. 82° 26′ W., 2.05 meters to [illegible]5 meters to point 32; thence [illegible]it 33; thence S. 78° 02′ W., [illegible]3° 34′ W., 2.05 meters to point [illegible]eters to point 36; thence N. [illegible] 37; thence N. 32° 23′ W., [illegible]. 32° 23′ W., 324.31 meters

to point 39; thence N. 32° 23′ W., 208.21 meters to point 40; thence N. 30° 49′ E., 2.07 meters to point 41; thence N. 28° 46′ E., 2.06 meters to point 42; thence S. 77° 23′ E., 304.38 meters to point 43; thence S. 77° 23′ E., 218.80 meters to point 44; thence S. 77° 23′ E., 482.00 meters to point 45; thence S. 77° 23′ E., 376.00 meters to point 46; thence S. 77° 23′ E., 357.64 meters to point 47; thence S. 0° 49′ E., 4.51 meters to point 48; thence S. 3° 43′ E., 21.87 meters to point 49; thence S. 6° 37′ E., 21.87 meters to point 50; thence S. 9° 31′ E., 21.87 meters to point 51; thence S. 12° 25′ E., 21.87 meters to point 52; thence S. 15° 19′ E., 21.87 meters to point 53; thence S. 18° 13′ E., 21.87 meters to point 54; thence S. 21° 07′ E., 21.87 meters to point 55; thence S. 24° 01′ E., 21.87 meters to point 56; thence S. 26° 56′ E., 22.12 meters to point 57; thence S. 57° 37′ W., 283.84 meters to point 58; thence S. 57° 37′ W., 324.31 meters to point 59; thence S. 57° 37′ W., 331.38 meters to point 60; thence S. 57° 37′ W., 185.84 meters to the point of beginning; containing an area of 986,687.30 square meters more or less. All points referred to are indicated on the plan and are marked on the ground as follows: points 2 to 34, inclusive, 41 and 48 to 56, inclusive, by points of curve and the rest by B.L. concrete monuments; bearings true; declination 0° 50′ E.; date of the original survey, December 1910 to June, 1911 and that of the subdivision survey, January 16 to 20, and 24, 1951.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 5th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPP

PROCLA

AUTHORIZING THE P
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WHEREAS, the Philippi
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been cooperating, intensi
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of which very marked progress has been attained in the crusade against this scourge in the Philippines;

WHEREAS, it is necessary that this humanitarian work being undertaken by the Society be pursued more vigorously and without disruption so that the rate of mortality and incidence of tuberculosis may be kept gradually down to the minimum attainable and the health of the nation may thereby be preserved; and

WHEREAS, tuberculosis being a socio-economic ill of incalculable deleterious effects upon our manpower and national economy, the Society deserves continued public support, moral as well as material, to enable it to carry on its noble mission of service;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the authority vested in me by law, do hereby authorize the Philippine Tuberculosis Society to conduct a national fund and educational drive during the period from August 19 to September 30, 1954. I call upon all citizens and residents of the Philippines, irrespective of nationality or creed, to assist in this humanitarian campaign by giving generously of their means so that we may keep this dreadful disease under control. I authorize all the treasurers of provincial, city and municipal governments as well as school officials to accept, for the Philippine Tuberculosis Society, voluntary contributions and donations and to issue official receipts therefor.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 5th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL] RAMON MAGSAYSAY
President of the Philippines

the President:

FRED RUIZ CASTRO
Executive Secretary

ÑANG
E PRESIDENT
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HE PHILIPPINES
No. 44
OF THE PHILIPPINES
SESSION

Whereas, the public interest requires that the Congress of the Philippines be convened in a special session in order to consider urgent legislative measures;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby call the Congress of the Philippines to a special session for such number of days as may be necessary, but not to exceed thirty days, commencing at ten o'clock in the morning of the nineteenth day of July, nineteen hundred and fifty-four, to consider the enactment of the following legislative measures:

1. An Act appropriating funds for Public Works and amending Republic Act No. 920.

2. An Act creating the Court of Agrarian Relations, prescribing its jurisdiction, and establishing its rules and procedure.

3. An Act to provide for the Civil Defense in time of war or other National Emergency, creating a National Defense Administration, and for other purposes.

4. An Act to govern the relation between Landlord and Tenant on Agricultural Lands under any system of tenancy.

5. An Act authorizing the expenditure during the period from January first to June thirty, nineteen hundred and fifty-four, of the income accruing to the general, special, trust and other funds in the Philippine Treasury during the same period.

6. An Act to amend section 178–A of Act Numbered 2427, otherwise known as the Insurance Act, as amended by Republic Act No. 488, and to add another section to be known as section 197–A, and for other purposes.

7. An Act to amend and repeal certain sections of the Charter of the City of Manila in order to provide for two additional judges in the Traffic Court and five additional Assistant City Fiscals.

8. An Act to amend Republic Act Numbered Six hundred and ninety-eight entitled "An Act to limit the importation of Foreign Leaf tobacco."

9. An Act appropriating the sum of Three hundred thousand pesos for the expenses of a Trade Mission to the United States.

10. An Act to demonetize Treasury certificates and Central Bank notes of over one hundred-peso denominations, and for other p[ur]poses.

11. An Act amending Republic Act Numbered Six hund[red] three entitled "An Act to develop and improve the rice a[nd] tries, to stabilize the price of rice and to promote the [e]nomic conditions of the people engaged in the pro[duc]ple foods."

12. An Act to create the p[ro]

15. An Act to amend the title and sections one, two and three of Republic Act Numbered Six hundred and fifty-seven entitled "An Act to promote the production of cassava flour, to regulate the importation of wheat flour and for other purposes" and to regulate the production, manufacture, sale and distribution of cassava flour and starch, and for other purposes.

All persons entitled to sit as members of the Congress of the Philippines are requested to take notice of this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 7th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL] RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 45

DECLARING FRIDAY, JULY 23, 1954, AS A SPECIAL PUBLIC HOLIDAY IN THE PROVINCE OF BA-NGAS

Apolinario Mabini, one of our greatest patriots, nauan, Batangas, on July 23, 1864; and

eople of Batangas desire to be given am- birthday of the "Sublime

Done in the City of Manila, this 7th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 46

RESERVING FOR THE USE OF THE CITY OF MANILA AS SITES FOR THE MEISIC POLICE STATION; THE JOSE ABAD SANTOS HIGH SCHOOL; THE MEISIC HEALTH CENTER; AND THE DISTRICT NUMBER TWO, DIVISION OF STREETS AND BRIDGES, OFFICE OF THE CITY ENGINEER, THE PROPERTY OTHERWISE KNOWN AS "CUARTEL MEISIC" SITUATED IN THE DISTRICT OF BINONDO, CITY OF MANILA

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the authority vested in me by law, hereby excluded from sale or settlement and reserve for the use of the City of Manila as sites for the Meisic Police Station; the Jose Abad Santos High School; the Meisic Health Center; and the District Number Two, Division of Streets and Bridges, Office of the City Engineer, subject to private rights, if any there be, the property otherwise known as "Cuartel Meisic", situated in the District of Binondo, City of Manila.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 10th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION NO. 47

REVOKING EXECUTIVE ORDER NUMBERED FORTY, SERIES OF NINETEEN HUNDRED AND THIRTEEN, AND CONVERTING THE AREA EMBRACED THEREIN SITUATED IN THE BARRIO OF NAGA, MUNICIPALITY OF TIWI, PROVINCE OF ALBAY, ISLAND OF LUZON, INTO A NATIONAL PARK TO BE KNOWN AS THE "TIWI HOT SPRING NATIONAL PARK"

Upon the recommendation of the Secretary of Agriculture and Natural Resources, concurrently Chairman, Commission on Parks and Wildlife, and pursuant to the provisions of section one of Act Numbered Thirty-nine hundred and fifteen, as amended, and of section two of Republic Act Numbered Eight hundred and twenty-six, I, Ramon Magsaysay, President of the Philippines, do hereby revoke Executive Order Numbered Forty, series of nineteen hundred and thirteen, and convert the area embraced therein situated in the barrio of Naga, municipality of Tiwi, Province of Albay, Island of Luzon, into a National Park to be known as the "Tiwi Hot Spring National Park" under the control and administration of the Commission on Parks and Wildlife.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 10th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

[redacted] RUIZ CASTRO
[redacted]*tive Secretary*

[redacted]ALACAÑANG

[redacted]F THE PRESIDENT
[redacted]HILIPPINES
[redacted]NILA

[redacted]ON NO. 48

[redacted] OF THE PRICE STABILI-
[redacted] A CERTAIN PARCEL OF
[redacted]N OF THE GOVERNMENT,
[redacted]TY OF DAVAO

Upon the recommendation of the Secretary of Agriculture and Natural Resources, and pursuant to the provisions of section 64(*e*) of the Revised Administrative Code in relation to Republic Act No. 477, I hereby withdraw from sale or settlement and reserve for the use of the Price Stabilization Corporation, subject to private rights, if any there be, a certain parcel of the private domain of the Government, situated in the City of Davao, and more particularly described as follows:

"Un terreno comprendido dentro de la Reserva Civil No. 111 de Davao, situado en el lado NE. de la Calle, Magallanes, Townsite de Davao, Distrito de Davao. Linda por el NE. con propiedad de Antonio Dy Chiao; por el SO. con la Calle Magallanes; y por el NO. con propiedad de Felipe Sandig. Partiendo de un punto marcado 1, en el plano, cuyo punto se halla al N. 84° 18′ E., y cuarenta y seis metros con veinteocho centimetros (46.28) del Mojon No. 10, Davao; y desde dicho punto 1 S. 52° E.,′ veinteocho metros con dieciocho centimetros (28.18) al punto 2; desde este punto S. 42° 03′ O., treinta metros con noventa y nueve centimetros (30.99) al punto 3; desde este punto NO. 47° 52′ O., veintisiete metros con cincuenta y ocho centimetros con noventa y seis centimetros (28.96) al punto de partida; mediendo una extensión superficial de 835 metros cuadrados. Todos los puntos nombrados se hallan marcados en el plano; la orientación segunda es la verdadera; siendo la declinación magnetic de 2° 34′ E.; y la fecha de la medición Junio de 1908.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 10th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL] RAMON MAGSA
President of the es

By the President:

FRED RUIZ CASTRO
Executive Secretary

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RESIDENCE OF THE
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BY THE PRESIDENT OF

PROCLAMA

WHEREAS, paragraphs 1 a
between the Republic of t
States of America concern
which was signed at Mani
follows:

ARTICLE I

1. During the period from the date of the entry into force of this Agreement to July 3, 1954, both dates inclusive, United States articles as defined in subparagraph (*e*) of paragraph I of the Protocol to this Agreement entered, or withdrawn from warehouse, in the Philippines for consumption, and Philippine articles as defined in Subparagraph (*f*) of Paragraph 1 of the Protocol entered, or withdrawn from warehouse, in the United States for consumption, shall be admitted into the Philippines and the United States, respectively, free of ordinary customs duty.

2. The ordinary customs duty to be collected on United States articles as defined in subparagraph (*e*) of paragraph 1 of the Protocol, which during the following portions of the period from July 4, 1954, to July 3, 1974, both dates inclusive, are entered, or withdrawn from warehouse; in the Philippines for consumption, and on Philippine articles as defined in subparagraph (*f*) of paragraph 1 of the Protocol, other than those specified in Items D to G, both inclusive, of the Schedule to Article II, which during such portions to such period are entered, or withdrawn from warehouse, in the United States for consumption, shall be determined by applying the following percentages of the Philippine duty as defined in subparagraph (h) of paragraph 1 of the Protocol, and of the United States duty as defined in subparagraph (*g*) of paragraph 1 of the Protocol, respectively:

(*a*) During the period from July 4, 1954, to December 31, 1954, both dates inclusive, five *per centum.*

(*b*) During the calendar year 1955, ten *per centum.*

(*c*) During each calendar year after the calendar year 1955 until and including the calendar year 1972, a percentage equal to the percentage for the preceding calendar year increased by five *per centum* of the Philippine duty and the United States five *per centum* of the Philippine duty and the United States duty, respectively, as so defined.

(*d*) During the period from January 1, 1973, to July 3, 1974, both dates inclusive, one hundred *per centum.*

WHEREAS, Philippine Republic Act No. 1137 of June 16, 195[illegible]d "An Act to Amend Commonwealth Act Seven Hu[illegible]l Thirty-Three" authorized the extension on the ba[illegible]ocity up to December 31, 1955, of the duty-fr[illegible]nited States articles in the Philippines as pr[illegible]agraph 1, article I of the Agreement, in lie[illegible]t specified in subparagraphs (*a*) and (*b*)[illegible]le I;

[illegible]States public law of July 5, 1954, [illegible]ide for an extension on a Recipro-[illegible]f the Free Entry of Philippine ar-[illegible]s" likewise authorized the extension [illegible]ity up to December 31, 1955, of the [illegible]ilippine articles in the United States [illegible]rticle I of the said Agreement, [illegible]ied in subparagraphs (*a*) and [illegible]nd

[illegible]he Act of the United States [illegible]President of the United States [illegible]amation dated July 10, 1954, [illegible]ent provided for in paragraph

1, article I of the said agreement, in lieu of the treatment specified in subparagraphs (*a*) and (*b*), paragraph 2, article I, to Philippine articles (as defined in the Protocol accompanying the Agreement) entered, or withdrawn from warehouse in the United States for consumption during the period from July 4, 1954, to December 31, 1955, both dates inclusive;

NOW, THEREFORE, be it known that I, Ramon Magsaysay, President of the Philippines, pursuant to Republic Act No. 1137, of June 16, 1954, do hereby proclaim the extension of the duty-free treatment provided for in article I, paragraph 1, of the Agreement, in lieu of the treatment provided for in article I, paragraph 2, subparagraphs (*a*) and (*b*), to United States articles (as defined in the Protocol) entered, or withdrawn from warehouse in the Philippines for consumption during the period from July 4, 1954, to December 31, 1955, both dates inclusive, to the end that the same and every part thereof may be observed and fulfilled with good faith by the Republic of the Philippines, the citizens of the Republic of the Philippines and all other persons subject to the jurisdiction thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 12th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL] RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

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OF THE PHILIPPINE
MANILA

BY THE PRESIDENT OF THE

PROCLAMATION N

EXCLUDING FROM THE OPERAT
ORDER NO. 67, SERIES OF
LISHED THE IWAHI

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the authority vested in me by law, I hereby exclude from the operation of Executive Order No. 67, series of 1912, which established the Iwahig Penal Colony, situated in the Municipality of Puerto Princesa, Province and Island of Palawan, a certain parcel of land embraced therein and declare the same open to disposition under the provisions of the Public Land Act, which parcel of land is more particularly described, to wit:

A parcel of land bounded on the Northeast, by the Inagawan Residential site; on the southeast, by the Sulu Sea; onthe southwest, by the Aborlan-Puerto Princesa National road, containing an area of 1,329 hectares, more or less.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 14th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

[SEAL] RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 38

CREATI[illegible]COMMITTEE TO INVESTIGATE THE AFF[illegible]THE NATIONAL RICE AND CORN

[illegible]vestigate the affairs of the National [illegible]tion is hereby created, composed of

[illegible]on ..... Chairman
..... Member

For the purpose of the investigation, the Committee is hereby granted all the powers of an investigating committee under sections 71 and 580 of the Revised Administrative Code, including the power to summon witnesses, administer oaths, and take testimony or evidence relevant to the investigation. The Committee is authorized to call upon any department, bureau, office, agency or instrumentality of the Government for such information as it may require in the performance of its work, and, for the purpose of securing such information, it shall have access to, and the right to examine, any books, documents, papers, or records thereof.

The Committee shall submit its report and recommendations to the President of the Philippines within the shortest time possible.

Done in the City of Manila, this 5th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 39

CREATING A COMMITTEE TO MAKE A ... OF EXISTING CIVIL SERVICE LAWS ... REGULATIONS AND OPERATING ... TO IMPLEMENT MORE VIGORO... VISIONS OF THE CONSTITUTI... THE CIVIL SERVICE

WHEREAS, the provisions of the C... the civil service should be more v... and

WHEREAS, the increasing compl... the evolvement of modern pe... dered the revision of civil servi...

NOW, THEREFORE, I, Ramon M... Philippines, do hereby create ... the following:

The Commissioner of the Budget	Chairman
The Undersecretary of Justice	Member
The Commissioner of Civil Service	Member

The Committee shall perform the following functions:

1. It shall undertake a study of the civil service laws with a view to drafting legislation that will provide for their codification, consolidation, amendment or repeal or the enactment of a new one. In its draft legislation the Committee shall provide the Bureau of Civil Service with explicit authority to enforce the provisions of the civil service law. It shall then undertake the drafting of civil service rules necessary to implement and supplement such legislation. Particular attention should be paid to the problems of examination, appointments, promotions, etc. The draft legislation and rules should clarify and define relationships between the Bureau and other departments of the Government. When the Bureau is given responsibility, it should be given corresponding authority.

2. It shall cause the immediate implementation of the recommendations contained in a report of a survey made by the Budget Commission, dated March 19, 1954, and submitted to the President on March 20, 1954, which the Committee may find necessary, copies of which may be procured from the Records Division of the Executive Office.

3. The Committee may submit partial reports and recommendations from time to time, but it shall complete and submit a final report not later than six months from the date hereof. Its final report shall summarize the recommendations contained in the report of the survey made by the Budget Commission, listing the recommendations which have been implemented and those which have not been implemented and the reasons therefor.

T[illegible]ommittee may secure records, data and information on [illegible]personnel to assist it in its work from any bureau o[illegible]f the Government.

[illegible]n the City of Manila, this 5th day of July, in th[illegible] of Our Lord, nineteen hundred and fifty-four, and [illegible] Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By t[illegible]dent:

[illegible], CASTRO
Secretary

[illegible] MALACAÑANG

[illegible]E OF THE PRESIDENT
[illegible]HE PHILIPPINES
[illegible] MANILA

[illegible] OF THE PHILIPPINES

[illegible]TIVE ORDER NO. 40

[illegible]JCIAL GOVERNOR ARCHIME-
[illegible]VA OF ZAMBALES

This is an administrative case against Provincial Governor Archimedes Villanueva of Zambales for alleged irregularities and abuses in office contained in a complaint filed by one Ild. A. Reynoso (who subsequently tried to withdraw the same for want of evidence to prove his charges) and in a report submitted by the National Bureau of Investigation. Upon the suggestion of the defunct Integrity Board, the matter was referred to the Department of Justice for investigation and report, particularly as to the following serious charges: (1) that respondent governor was supervising a contract with the Sto. Tomas Irrigation System, (2) that he was a contractor in government projects, and (3) that as a private engineer he used a government cement mixer machine without proper authority to do so.

Investigation conducted by the Provincial Fiscal of Zambales, to whom the case was in turn referred by the Department of Justice for investigation, appropriate action and report, discloses that upon assuming office as Provincial Governor of Zambales on January 1, 1952, the respondent quit as subcontractor of the C. M. Barredo Enterprises, the contractor for the construction of the Sto. Tomas Irrigation System with which the respondent had no direct dealing or contract; that since assuming office as provincial executive the respondent has never had any contract with the Government in any of its projects; and that the cement mixer in question was leased to the respondent by virtue of Resolution No. 14 dated January 6, 1951, of the Provincial Board of Zambales when he was still a private citizen engaged in his profession as civil engineer.

From the foregoing, I am satisfied that the charges against the respondent have been [illegible]ntiated, much

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 41

AMENDING ADMINISTRATIVE ORDER NO. 17 DATED NOVEMBER 15, 1946, CREATING AMNESTY COMMISSION, ARMED FORCES OF THE PHILIPPINES

By virtue of the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby amend Administrative Order No. 17 dated November 15, 1946, by providing that the Amnesty Commission, Armed Forces of the Philippines, therein created shall be composed of the following:

Col. Sixto J. Carlos, JAGS	Chairman
Lt. Col. Angel S. Salcedo, JAGS	Member
Lt. Col. Guillermo Santos, JAGS	Member

Done in the City of Manila, this 6th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

The Committee is authorized to call upon any department, bureau, office, agency or instrumentality of the Government for such assistance or information as it may require in the performance of its functions, and for this purpose, it shall have access to, and the right to examine, any books, documents, papers or records thereof.

The Committee shall submit its report and recommendations to the President of the Philippines within the shortest time possible.

Done in the City of Manila, this 6th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 43

CREATING A COMMITTEE TO INVESTIGATE MINING ACCIDENTS AND TO LOOK INTO THE ACTIVITIES OF THE BUREAU OF MINES FOR THE PURPOSE OF DETERMINING WHETHER IT [illegible] DONE ITS DUTY OF PROTECTING MINER[illegible]

By virtue of the powers vested in me by law, [illegible] Magsaysay, President of the Philippines, do her[illegible] a Committee composed of the following:

Mr. Servillano Aquino

The Committee is hereby granted all the powers of an investigating committee under sections 71 and 580 of the Revised Administrative Code, including the power to summon witnesses, administer oaths, and take testimony or evidence relevant to the investigation. It is also authorized to call upon any department, bureau, office, agency or instrumentality of the Government for such assistance or information as it may require in the performance of its functions, and for this purpose, it shall have access to, and the right to examine, any books, documents, papers or records thereof.

This Committee shall submit its report and recommendations within the shortest time possible.

Done in the City of Manila, this 10th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

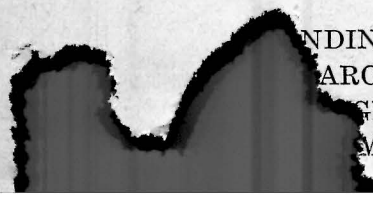
FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 44



NDING ADMINISTRATIVE ORDER NO. 11 DATED
ARCH 6, 1954, CREATING A COMMITTEE ON
GRAMMING AND PLANNING OF ROADS TO
MPROVED

rative der No. 11, dated March 6, 1954, enti-

Done in the City of Manila, this 13th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 45

CREATING A COMMITTEE TO HANDLE THE REHABILITATION OF PARDONED AND PAROLED PRISONERS

By virtue of the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby create a Committee composed of the following:

Mr. Eligio Tavanlar	Chairman
Hon. Jesus Barrera, Undersecrtary of Justice	Member
Hon. Jaime Ferrer, Undersecrtary of Agriculture and Natural Resources	Member
Mr. Alfredo Bunye, Director of Prisons	Member
Col. Ciriaco Mirasol	Member

to investigate the conditions of prisoners released under p
role or conditional pardon with a view to extending th
assistance in rehabilitating themselves economically, soci
and morally to be able to reassume their place i
and become once more useful and law-abiding ci

The Committee is hereby granted all th po
vestigating committee under section
vised Administrative Code, includi
witnesses, administer oaths, and tak
relevant to the investigation. It is
upon any department, bureau, office, a
ity of the Government for such assi
it may require in the performance
this purpose, it shall have access t
ine, any books, documents, papers o

This Committee shall submit its
ations within the shortest time pos

Done in the City of Manila, this 13th day of July, in the year of Our Lord, nineteen hundred and fifty-four and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 46

AUTHORIZING THE PIONEER INSURANCE AND SURETY CORPORATION TO BECOME A SURETY UPON OFFICIAL RECOGNIZANCES, STIPULATIONS, BONDS AND UNDERTAKINGS

WHEREAS, section 1 of Act No. 536, as amended by Act No. 2206, provides that whenever any recognizance, stipulation, bond or undertaking conditioned for the faithful performance of any duty or of any contract made with any public authority, national, provincial, municipal, or otherwise, or of any undertaking, or for the doing or refraining from doing anything in such recognizance, stipulation, bond, or undertaking specified, is, by the laws of the Philippines, or by the regulations or resolutions of any public authority therein, required or permitted to be given with [illegible] surety or with two or more sureties, the execution of [illegible] same or the guaranteeing of the performance of the [illegible]dition thereof shall be sufficient when executed or gua[illegible]olely by any corporation organized under the laws [illegible]ippines, having power to guarantee the fidelity [illegible]olding positions of public or private trust and [illegible]tee bonds or undertakings in judicial [illegible]ree to the faithful performance of [illegible]aking made with any public author-

[illegible]on further provides that no head of [illegible]e, officer, board, or body executive, [illegible]all approve or accept any corpora[illegible]ecognizance, stipulation, bond con[illegible]nless such corporation has been au[illegible]s in the Philippines in the manner [illegible]ns of said Act No. 536, as amended, [illegible]ion has, by contract with the Gov-

ernment of the Philippines, been authorized to become a surety upon official recognizances, stipulations, bonds, and undertakings; and

WHEREAS, the Pioneer Insurance and Surety Corporation is a domestic corporation organized and existing under the laws of the Republic of the Philippines and fulfills the conditions prescribed by said Act No. 536, as amended.

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers in me vested by law, do hereby authorize the Pioneer Insurance and Surety Corporation to become a surety upon official recognizances, stipulations, bonds and undertakings in such manner and under such conditions as are provided by law, except that the total amount of immigration bonds, that it may issue shall not, at any time exceed its admitted assets.

Done in the City of Manila, this 13th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 47

CREATING A SPECIAL MISSION TO THE UNITED STATES TO STUDY THE POSSIBILITY OF FOREIGN CAPITALISTS' INVESTING IN THE PHILIPPINES

There is hereby created a Special Mission to [illegible] States to study the possibility of foreign capit[illegible] ing in the Philippines. The Mission shall be [illegible] the following:

1. Mr. Manuel Gonzales
2. Mr. Ramon del Rosario
3. Mr. Marvin Gray
4. Mr. Miguel Cuaderno
5. Mr. Leonides Virata
6. Mr. John Hausserman

The Mission shall contact persons [illegible] foreign investments; convince them [illegible]

opportunities in the Philippines, obtain commitments from them as to amount of investments, their preferred types of endeavor, etc.; and get a cross-section of their requirements as to incentives, government protection, understanding and privileges should they come to the Philippines.

The Mission shall submit its report and recommendations to the President of the Philippines upon its return.

It is understood that the Mission will perform its task at no cost to the Philippine Government, as all the members thereof will be paying their own way.

Done in the City of Manila, this 14th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 48

GREATING A COMMITTEE TO INVESTIGATE THE AFFAIRS AND CONDITIONS OF THE PUBLIC SERVICE COMMISSION AND TO RECOMMEND MEASURES TO IMPROVE THE SERVICE RENDERED BY IT

By virtue of the powers vested in me by law, I, Ramon agsaysay, President of the Philippines, do hereby create ommittee to investigate the affairs and conditions of Service Commission and to study and recom- res to improve the service rendered by it. The all be composed of the following:

lencio Garcia ..... Chairman
n A. Baes ..... Member
Frias ..... Member

ereby granted all the powers of an e under sections 71 and 580 of the Code, including the power to inister oaths, and take testimony to the investigation. It is also n any department, bureau, office, lity of the Government for such

assistance or information as it may require in the performance of its functions, and for this purpose, it shall have access to, and the right to examine, any books, documents, papers or records thereof.

This Committee shall submit its report and recommendations within the shortest time possible.

Done in the City of Manila, this 20th day of July, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the ninth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

REPUBLIC ACTS

Enacted during the Third Congress of the Philippines
First Session

H. No. 1952

[REPUBLIC ACT No. 1043]

AN ACT TO CONVERT THE SITIO OF MALALIM IN THE BARRIO OF MAHABANG DAHILIG, MUNICIPALITY OF BATANGAS, PROVINCE OF BATANGAS, INTO A BARRIO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The southern portion of the barrio of Sirang Lupa, the northern portion of barrio Mahabang Dahilig and the eastern portion of the barrio of San Isidro, all in the municipality of Batangas, Province of Batangas, are separated from their respective barrios and together with the sitio of Malalim of the same municipality are converted into a barrio to be known as the barrio of Malalim.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1966

[REPUBLIC ACT No. 1044]

AN ACT CHANGING THE NAME OF THE COMMUNAL BARRIO SCHOOL IN THE MUNICIPALITY OF CALAPAN, PROVINCE OF ORIENTAL MINDORO, TO FILEMON SAMACO MEMORIAL SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Communal Barrio School in the municipality of Calapan, Province of Oriental Mindoro, is changed to Filemon Samaco Memorial School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

1971

[REPUBLIC ACT No. 1045]

ANGING THE NAME OF THE PINAMA-
MENTARY SCHOOL IN THE MUNIC-
PINAMALAYAN, PROVINCE OF
DORO, TO JUAN MORENTE, SR.
HOOL.

nate and House of Representatives
in Congress assembled:

me of the Pinamalayan Elementary
cipality of Pinamalayan, Province of

Oriental Mindoro, is changed to Juan Morente, Sr. Memorial School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 2016

[REPUBLIC ACT No. 1046]

AN ACT CREATING THE BARRIO OF CONCEPCION IN THE MUNICIPALITY OF SAUG, PROVINCE OF DAVAO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Concepcion in the municipality of Saug, Province of Davao, is hereby constituted into a barrio of the said municipality to be known as the barrio of Concepcion.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 2027

[REPUBLIC ACT No. 1047]

AN ACT CHANGING THE NAME OF THE TARUG BARRIO SCHOOL IN THE BARRIO OF TARUG, MUNICIPALITY OF ALIMODIAN, PROVINCE OF ILOILO, TO AMAQUIN MEMORIAL SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of Tarug Barrio School in the barrio of Tarug, municipality of Alimodian, Province of Iloilo, is hereby changed to Amaquin Memorial School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 2045

[REPUBLIC ACT No.

AN ACT TO CHANGE THE N
TRAL ELEMENTARY
CENTRAL ELEMENTAR
MUNICIPALITY OF TAGO
GAO.

Be it enacted by the Senate and
of the Philippines in C ngr

S ction 1. In recogni

H. No. 2393

[REPUBLIC ACT No. 1049]

AN ACT GRANTING THE UNIVERSITY OF SANTO TOMAS A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A RADIO BROADCASTING STATION IN THE CITY OF MANILA FOR EDUCATIONAL PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the provisions of the Constitution, as well as of Act Numbered Three thousand eight hundred forty-six, entitled "An Act providing for the regulation of radio stations and radio communications in the Philippine Islands, and for other purposes;" Act Numbered Three thousand nine hundred ninety-seven, known as the Radio Broadcasting Law; Commonwealth Act Numbered One hundred forty-six, known as the Public Service Act, and their amendments, and other applicable laws, not inconsistent with this Act, the University of Santo Tomas is hereby granted a franchise to construct, maintain and operate, for educational purposes and in the public interest, a radio broadcasting station in the City of Manila.

SEC. 2. This franchise shall continue for a period of twenty-five years from the date the said station shall be put in operation, and is granted upon the express condition that the same shall be void unless the construction of said station be begun within six months from the date of approval of this Act and be completed within two years from said date.

SEC. 3. This franchise is likewise made upon the express condition that the grantee shall contribute to the public welfare, shall assist in the functions of public information and education, shall conform to the ethics of honest enterprise, and shall not use its station for the dissemination of deliberately false information or willful misrepresentation, or to the detriment of the public health, or to incite, encourage or assist in subversive or treasonable [illegible].

SEC. 4. [illegible]tee's radio broadcasting station shall [illegible]be p[illegible] operation until the Secretary of [illegible]mmunications shall have allotted to [illegible]cy and wave length to be used [illegible]d issued to the grantee license

[illegible]oadcasting station of the grantee [illegible]nd operated and the wave length [illegible]nterference with existing radio [illegible] the expansion of the grantee's

SEC. 7. The grantee shall be liable to pay the same taxes, unless exempted therefrom, on its real estate, buildings, and personal property, exclusive of the franchise, as other persons or corporations are now or hereafter may be required by law to pay.

SEC. 8. The franchise hereby granted shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires.

SEC. 9. Acceptance of this franchise shall be given in writing by the grantee within six months after the approval of this Act. When so accepted, the grantee shall be empowered to exercise the privileges granted thereby.

SEC. 10. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise nor the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other company or corporation organized for the same purpose, without the approval of the Congress of the Philippines first had. Any corporation to which this franchise may be sold, transferred, or assigned, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted, and any person, firm, company, corporation or other commercial or legal entity to which this franchise is sold, transferred, or assigned shall be subject to all conditions, terms, restrictions and limitations of this franchise as fully and completely and to the same extent as if the franchise had been originally granted to the said person, firm, company, corporation or other commercial or legal entity.

SEC. 11. This franchise shall not be interpreted as an exclusive grant of the privileges herein provided for.

SEC. 12. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 2414

[REPUBLIC ACT No. 1050]

AN ACT GRANTING MARIA G. DE GONZALES, FORTUNATO DE LEON AND FRANCISCO ... ENGAGED IN BUSINESS AS A CO-... AND USING THE BUSINESS ... A TEMPORARY PERMIT TO ... TAIN AND OPERATE PRIV... TO-POINT, PRIVATE COAS... LAND BASE RADIO STATIO... TION AND TRANSMISSION ... NICATIONS WITHIN THE ...

Be it enacted by the Senate and H... of the Philippines in Congress ...

SECTION 1. There is hereby gra... Gonzales, Fortunato de Leon and ... engaged in business as a co-partne... business name "GOLEDA", the succe... of said co-partnership, a temporary ... maintain and operate in the Philippi...

as the said grantee may select, subject to the approval of the Secretary of Public Works and Communications, private fixed point-to-point, private coastal and private land base radio stations for the reception and transmission of wireless messages on radiotelegraphy or radiotelephony, each station to be provided with a radio transmitting apparatus and a radio receiving apparatus.

SEC. 2. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, and is granted upon the express condition that the same shall be void unless the grantee shall start construction of at least one radio station within two years from the date of approval of this Act and shall complete the construction within four years from said date.

SEC. 3. The President of the Philippines shall have the power and authority to permit the location of such private fixed point-to-point, private coastal and private land base radio stations or any of them on land of the public domain upon such terms as he may prescribe.

SEC. 4. The grantee, its successors and assigns, shall not engage in domestic business of telecommunications in the Philippines without further special assent of the Congress of the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee the right to construct, install, maintain and operate private fixed point-to-point, private coastal and private land base radio stations in such places within the Philippines as the interest of the grantee and of its trade and business may justify.

SEC. 5. No fees shall be charged by the grantee as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 6. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 7. The grantee, its successors or assigns, shall hold
nal, provincial, city and municipal governments
pines harmless from all claims, accounts,
ons arising out of accidents or injuries,
r to persons, caused by the construc-
ts radio stations.

e, its successors or assigns, shall
ration laws of the Philippines now
nacted.

its successors or assigns, is au-
radio stations on the frequencies
t by the Secretary of Public Works
ncluding the international distress
red kilocycles, and to communicate
s open to public correspondence only
y.

al right is hereby reserved to the Pres-
pines in time of war, insurrection, public
disaster to cause the closing of the
ns or to authorize the temporary use

or possession thereof by any department of the Government, upon just compensation.

SEC. 11. This temporary permit shall be subject to amendment, alteration or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privileges herein provided for.

SEC. 12. This Act shall take effect upon its approval.

Approved, June 12, 1954.

S. No. 7

[REPUBLIC ACT No. 1051]

AN ACT TO REQUIRE ALL BUREAUS, OFFICES, AGENCIES AND INSTRUMENTALITIES OF THE GOVERNMENT, INCLUDING GOVERNMENT OWNED OR CONTROLLED CORPORATIONS, PROVINCES, CITIES AND MUNICIPALITIES, TO DEDUCT AND WITHHOLD FROM ANY MONEY PAYMENT TO PRIVATE INDIVIDUALS, CORPORATIONS, PARTNERSHIPS, AND/OR ASSOCIATIONS, ANY AND ALL TAXES DUE AND PAYABLE ON ACCOUNT OF SAID MONEY PAYMENT.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. All bureaus, offices, agencies and instrumentalities of the government, including government owned or controlled corporations, provinces, cities and municipalities, shall, before making any money payment to private individuals, corporations, partnerships and/or associations, deduct and withhold any and all taxes the amount of which can be fixed, determined, computed or ascertained, due from such individuals, corporations, partnerships and/or associations on account of said money payment: *Provided, however,* That, the deductions and withholdings referred to herein shall not be required in case previous payments of the aforesaid tax liability or liabilities had already been made by the corresponding payee.

SEC. 2. The tax liability for which withholding, or of which previous payment is required in sect[illegible]ne of [illegible] Act includes any and all taxes which ca[illegible]ed mined, computed or ascertained on acco[illegible] payments.

SEC. 3. The Secretary of Finance s[illegible] essary rules and regulations to impl[illegible] carry out the provisions of this A[illegible]

SEC. 4. It shall be unlawful for [illegible] ployee, or official or employee of a[illegible] controlled corporation to authorize[illegible] mentioned in section one hereof w[illegible] without requiring the previous paym[illegible] mentioned in section two hereof. I[illegible] lawful for any person or persons to inc[illegible] any public officer or employee, or officia[illegible] government owned or controlled corpora[illegible]

unlawful act herein defined or to receive any payment in violation of this Act.

SEC. 5. Any violation of this Act shall be punished by a fine not less than one thousand pesos nor more than two thousand pesos and imprisonment for not more than one year: *Provided,* That, in the case of a public officer or employee he shall be further subject to administrative proceedings and, if found guilty, shall be dismissed from the service: *Provided, further,* That in case of aliens, in addition to the penalties provided for in this section, they shall be deported without further deportation proceedings.

SEC. 6. This Act shall take effect upon its approval.

Approved, June 12, 1954.

S. No. 17

[REPUBLIC ACT NO. 1052]

AN ACT TO PROVIDE FOR THE MANNER OF TERMINATING EMPLOYMENT WITHOUT A DEFINITE PERIOD IN A COMMERCIAL, INDUSTRIAL, OR AGRICULTURAL ESTABLISHMENT OR ENTERPRISE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In cases of employment, without a definite period, in a commercial, industrial, or agricultural establishment or enterprise, neither the employer nor the employee shall terminate the employment without serving notice on the other at least one month in advance.

The employee, upon whom no such notice was served, shall be entitled to one month's compensation from the date of termination of his employment.

SEC. 2. Any contract or agreement contrary to the provisions of section one of this Act shall be null and void.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 12, 1954.

S. No. 60

[REPUBLIC ACT NO. 1053]

AN ACT TO AMEND REPUBLIC ACT NUMBERED THREE HUNDRED AND EIGHTY-FIVE AUTHORIZING CERTAIN OFFICIALS OF THE GOVERNMENT OF THE UNITED STATES OR ANY AGENCY THEREOF TO ADMINISTER OATHS AND AFFIRMATIONS IN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives in Congress assembled:

SECTION 1. Section one of Republic Act Numbered Three hundred and eighty-five, which authorizes certain officials of the United States or any agency thereof to administer oaths and affirmations in the Philippines, is hereby amended to read as follows:

"SECTION 1. Any person employed in the Philippines by the Government of the United States, or any agency through which authority is delegated by the said Gov-

ernment or agency, to administer oaths and affirmations, to aid claimants for benefits granted by the United States in the preparation and presentation of their claims, and to make investigations and examine witnesses, shall have authority to administer oaths and affirmations during his employment in the Philippines in any investigation or matter connected with the performance of his duties and functions: *Provided, however,* That for any oath or affirmation administered by him, no fee shall be charged or collected."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

S. No. 89

[REPUBLIC ACT No. 1054]

AN ACT TO REVISE AND CONSOLIDATE THE PROVISIONS OF ACT NUMBERED THREE THOUSAND NINE HUNDRED SIXTY-ONE, AS AMENDED, RELATIVE TO FREE EMERGENCY MEDICAL TREATMENT, AND REPUBLIC ACT NUMBERED TWO HUNDRED THIRTY-NINE, RELATIVE TO FREE EMERGENCY DENTAL TREATMENT, FOR EMPLOYEES AND LABORERS OF COMMERCIAL, INDUSTRIAL AND AGRICULTURAL ESTABLISHMENTS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. It shall be the duty, of the owner, lessee, or operator of any shop, factory, estate, or commercial, industrial or agricultural establishments, or branch thereof, whether the same be an individual, corporation, or partnership, or government-owned or controlled corporation, or the National Government, or a provincial or municipal government, or the government of any political subdivision whatsoever, who habitually employs in any locality employees or laborers to furnish free emergency medical and dental attendance to his employees and laborers, in the following cases and manner:

(*a*) If the number of employees and laborers, is not less than thirty nor more than two hundred, the owner, lessee, or operator shall keep a stock of em[illegible]rgency medicines under the charge of a nurse for [illegible] employees and laborers, and shall furnish [illegible] medical and dental attendance to th[illegible] within a radius of one kilometer f[illegible] industrial, or agricultural establishm[illegible] dispensary furnishing medicine fre[illegible] applicants or a pharmacy where th[illegible] the same for the purposes of this [illegible] stock of emergency medicine shall [illegible] do so, in the discretion of the Secr[illegible] authorized representatives: *Provide[illegible]* exemption shall not apply in cases [illegible] employees and laborers exceeds one [illegible] greater than two hundred.

(*b*) When the number of employees an[illegible] ceeds two hundred but is not greater than t[illegible]

the owner, lessee, or operator, in addition to keeping a stock of emergency medicines under the charge of a nurse shall employ the services of a permanent or retained physician and a permanent or retained dentist for the benefit of employees and laborers, and provide a room of strong materials, properly ventilated, and adequate enough to meet cases of emergency.

(*c*) When the number of employees exceeds three hundred, the owner, lessee, or operator in addition to keeping a stock of medicines and employing, in full the services of a physician and a dentist for the purposes specified in the preceding two subsections, shall maintain a dental clinic and an infirmary or emergency hospital of sufficient capacity of one bed for each hundred employees, except where this shall be unnecessary because of the existence of a dental clinic and of a hospital in the place, at a distance not greater than two kilometers from the commercial, industrial, or agricultural establishment. In such cases, the owner, lessee, or operator may enter into an agreement with said dental clinic and hospital to reserve the necessary number of beds for the purposes specified in this subsection: *Provided,* That the number of beds may be increased to three for each two hundred laborers and employees according to the nature of the establishment, at the discretion of the Secretary of Labor.

SEC. 2. The physicians and dentists of the commercial, industrial, and agricultural establishments, or branches of such establishments shall subject all the employees of said establishments or branches thereof and members of said unions or branches thereof to a medical and dental examination at least once a year, and shall make detailed monthly and annual reports of all the services rendered by them.

SEC. 3. The owner, lessee, or operator of any commercial, industrial, or agricultural establishment subject to the provisions of this Act shall not be held liable for failing to furnish medical or dental treatment of other than an emergency nature, as prescribed in this Act and in the rules and regulations issued thereunder by the Secretary of Labor or his authorized representative; or failing to furnish adequate emergency treatment in cases of epidemics, catastrophes, fires, or other disasters resulting in an extraordinarily large number of sick and injured among h[illegible]ployees and laborers, or creating such situa[illegible]der the proper furnishing of medical or [illegible]e prescribed by this Act difficult; and he [illegible]e held civilly or criminally liable for [illegible]he medical or dental treatment herein [illegible]ceptance whereof shall be entirely [illegible]orer or employee, or with his family [illegible]lered authorized to speak for the sick

[illegible]tation provided for in subsections [illegible]section one of this Act shall include [illegible]loyees financially dependent for their [illegible]e upon the owner, lessee, or operator [illegible]l, industrial, or agricultural establishment [illegible] provisions of this Act.

[illegible]e Chief Medical Officer of the Department of [illegible] authorized representative shall prescribe the

kinds and quantities of the medicines mentioned in subsections (*a*), (*b*), and (*c*) of section one of this Act and the conditions of the dental clinic and infirmary or hospital mentioned in subsection (*c*) of said section; and shall see to the enforcement of this Act, inspecting the commercial, industrial, and agricultural establishments subject to the provisions of this Act at intervals of not more than six months, and shall also issue instructions and from time to time promulgate such rules and regulations as he may deem necessary and advisable to carry out properly the provisions of this Act. The medicines, material, and equipment required by this Act may be purchased or requisitioned from the Bureau of Supply, thru the Secretary of Labor, and shall in this case be furnished at the same prices as the Government pays for the same.

SEC. 6. (*a*) Any person who willfully violates Section one of this Act shall upon conviction be punished by a fine of not less than twenty five pesos nor more than three hundred pesos, and upon second or subsequent conviction, the Court may in addition, order the definite closing of the establishment.

(*b*) If any violation of this Act is committed by a corporation, trust, partnership, or branch thereof, the president, the manager, or, in his default, the person acting as such when the violation took place, shall be held liable. In the case of a government owned or controlled corporation, the managing head shall be held liable, except when it is shown that the violation was due to the act or omission of some other person over whom he has no control, in which case the latter shall be held liable.

(*c*) In case the National Government, or any provincial or municipal government or the government of some political subdivision is owner, lessee or operator of the establishment or branch where the violation is committed, the officer having direct charge, control or supervision of said establishment shall be held liable.

SEC. 7. Act Numbered Three thousand nine hundred sixty-one, Commonwealth Act Numbered Thr... twenty-four, Republic Act Numbered Forty-... public Act Numbered Two hundred and t... hereby repealed.

SEC. 8. This Act shall take effect thre... its approval.

Approved, June 12, 1954.

S. No. 107

[REPUBLIC ACT No. 1...

AN ACT TO AMEND COMMONWEA...
BERED TWO HUNDRED EIGHT...
TO TRANSFER TO THE SECUR...
CHANGE COMMISSION THE PO...
AND FUNCTIONS OF THE BU...
MERCE IN CONNECTION WITH T...
OF FOREIGN CORPORATIONS AN...
IZE THE SECURITIES AND EXC...
MISSION TO ENFORCE THE PR...
ALL LAWS AFFECTING SUCH ENTI...

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section one of Commonwealth Act Numbered Two Hundred eighty-seven is hereby amended to read as follows:

"The powers, duties and functions now vested in, or performed and exercise by, the Bureau of Commerce in connection with the registration of domestic corporations and all other forms of association as well as the licensing of foreign corporations are transferred to the Securities and Exchange Commission. The Securities and Exchange Commission shall be charged with the enforcement of all laws affecting such corporations and associations, and to this end, may conduct such investigations as it may consider necessary: *Provided,* That the power herein conferred shall in no manner affect the power now exercised by government bureaus or offices over certain classes of corporations. In the exercise of the power of investigation, the provisions of section thirty-one of Commonwealth Act Numbered Eighty-three, creating the Securities and Exchange Commission, including the penalties therein provided, shall be applicable."

SEC. 2. Section two of Commonwealth Act Number Two hundred eighty-seven is hereby amended to read as follows:

"All books, records, documents, and files of the Bureau of Commerce relating to corporations and associations, and such personnel of the aforesaid Bureau as is now discharging the functions or performing the duties of the Bureau of Commerce in connection with the registration of corporations and associations as well as the licensing of foreign corporations, together with the corresponding appropriations, are transferred to the Securities and Exchange Commission and the Budget Commissioner shall make immediate provision for such transfer."

SEC. 3. All laws or parts of any law in conflict with this Act are hereby repealed.

SEC. 4. This Act shall take effect upon its approval.

June 12, 1954.

[REPUBLIC ACT NO. 1056]

IEND REPUBLIC ACT NUMBERED
NDRED AND FORTY-NINE, EN-
ACT TO LEGALIZE PERMISSIONS
N ORGANS OR ANY PORTION OR
THE HUMAN BODY FOR MEDICAL,
R SCIENTIFIC PURPOSES, UNDER
ONDITIONS."

he Senate and House of Representatives
ines in Congress assembled:

tion one of Republic Act Numbered Three
ine, entitled "An Act to legalize permissions
rgans or any portion or portions of the hu-

man body for medical, surgical, or scientific purposes, under certain conditions", is hereby amended to read as follows:

"SECTION 1. A person may validly grant to a licensed physician, surgeon, known scientist, or any medical or scientific institution, including eye banks and other similar institutions, authority to detach at any time after the grantor's death any organ, part or parts of his body and to utilize the same for medical, surgical, or scientific purposes.

"Similar authority may also be granted for the utilization for medical, surgical, or scientific purposes, of any organ, part or parts of the body which, for a legitimate reason, would be detached from the body of the grantor."

SEC. 2. Section two of the same Act is hereby amended to read as follows:

"SEC. 2. The authorization referred to in section one of this Act must: be in writing; specify the person or institution granted the authorization; the organ, part or parts to be detached, the specific use or uses to which the organ, part or parts are to be employed; and, signed by the grantor and two disinterested witnesses.

"If the grantor is a minor or an incompetent person, the authorization may be executed by his guardian with the approval of the court; in default thereof, by the legitimate father or mother, in the order, named. Married women may grant the authority referred to in section one of this Act, without the consent of the husband.

"After the death of the person, authority to use human organs or any portion or portions of the human body for medical, surgical or scientific purposes may also be granted by his nearest relative or guardian at the time of his death or in the absence thereof, by the person or head of the hospital, or institution having custody of the body of the deceased: *Provided, however,* That the said person or head of the hospital or institution has exerted reasonable efforts to locate the aforesaid guardian or relative.

"A copy of every such authorization must be furnished the Secretary of Health."

SEC. 3. A new section is hereby created immediately after section two of the aforesaid Republic Act Numbe[illegible]d T[illegible] hundred forty-nine which shall hereafter be d[illegible] section two-A, and shall read as follows:

"SECTION 2-A. The provisions of sections [illegible] of this Act notwithstanding, it shall be i[illegible] person or any institution to detach any or[illegible] of the body of a person dying of a dange[illegible] cable disease even if said organ or porti[illegible] man body shall be used for medical or sci[illegible] Any person who shall violate the provisio[illegible] shall be punished with an imprisonment [illegible] six months nor more than one year. If [illegible] committed by an institution, corporation[illegible] the director, manager, president, and/or[illegible] and employees who, knowingly or through n[illegible] the act or acts resulting in said violation [illegible] criminally responsible therefor."

SEC. 4. This Act shall take effect upon its [illegible]

Approved, June 12, 1954.

S. No. 172

[REPUBLIC ACT No. 1057]

AN ACT TO AMEND REPUBLIC ACT NUMBERED NINE HUNDRED AND TEN ENTITLED "AN ACT TO PROVIDE FOR THE RETIREMENT OF JUSTICES OF THE SUPREME COURT AND OF THE COURT OF APPEALS, FOR THE ENFORCEMENT OF THE PROVISIONS HEREOF BY THE GOVERNMENT SERVICE SYSTEM, AND TO REPEAL COMMONWEALTH ACT NUMBERED FIVE HUNDRED AND THIRTY-SIX" AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Republic Act Numbered Nine hundred and ten is hereby amended by inserting between its sections two and three a new section which shall be known as section Two–A thereof, and which shall read as follows:

"SEC. 2–A. Any Justice of the Supreme Court or of the Court of Appeals who ceased to hold such position prior to the approval of this amendatory Act, to accept another position in the Government or who resigned or retired from said courts after the effectivity of Commonwealth Act Numbered Five hundred and thirty-six, entitled "An Act authorizing the retirement of Justices of the Supreme Court, and making appropriations for the payment of a retirement gratuity", without enjoying the benefits thereunder, shall be entitled to the benefits under the provisions of this Act: *Provided,* That at the time of his cessation in office or retirement as Justice of the Supreme Court or of the Court of Appeals, he possessed all the requirements prescribed by this Act: *And provided, further,* That the benefits authorized hereunder shall accrue only from the date of the approval of this amendatory Act.

SEC. 2. Republic Act Numbered Nine hundred and ten is hereby further amended by inserting between its sections three and four a new section to be known as section Three–A thereof, and which shall read as follows:

"SEC. 3–A. In case the salary of Justices of the Supreme
[illegible]t or of the Court of Appeals is increased or decreased
[illegible]sed or decreased salary shall, for the purposes
[illegible]e deemed to be the salary which a Justice who
[illegible]uch to accept another position in the Govern-
[illegible]iving at the time of his cessation in office:
[illegible]t any benefits that have already accrued prior
[illegible]se or decrease shall not be affected thereby."

[illegible] sum necessary to carry out the purposes of
[illegible]y Act and Republic Act Numbered Nine
[illegible], is hereby appropriated out of any funds in
[illegible]easury not otherwise appropriated.

[illegible]Act shall take effect upon its approval.

[illegible]ne 12, 1954.

[REPUBLIC ACT No. 1058]

[illegible]O ESTABLISH A SCHOOL OF FISHERIES IN
PROVINCE OF ANTIQUE AND TO AUTHOR-
THE APPROPRIATION OF NECESSARY
DS THEREFOR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There shall be established under the direct supervision of the Director of Fisheries, a school of fisheries in the Province of Antique to be known as the Antique School of Fisheries.

SEC. 2. The Director of Fisheries shall be *ex officio* dean of the Antique School of Fisheries, serving in such capacity without additional compensation. Subject to the approval of the Secretary of Agriculture and Natural Resources, the Director of Fisheries is authorized to detail to said school such officers and employees of the Bureau of Fisheries as may be necessary and to employ experts in fishing for the purpose of giving instruction to the students therein.

SEC. 3. The Secretary of Agriculture and Natural Resources shall promulgate such rules and regulations not inconsistent with law as may be necessary to carry into effect the purposes of this Act.

SEC. 4. The sum of one hundred thousand pesos is authorized to be appropriated, out of any funds in the National Treasury not otherwise appropriated, for the establishment, operation and maintenance of the said school for the fiscal year ending June thirty, nineteen hundred fifty-five, and for its operation and maintenance in subsequent years.

SEC. 5. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 538

[REPUBLIC ACT No. 1059]

AN ACT PROHIBITING THE NAMING OF SITIOS, BARRIOS, MUNICIPALITIES, CITIES, PROVINCES, STREETS, HIGHWAYS, AVENUES, BRIDGES, AND OTHER PUBLIC THOROUGHFARES, PARKS, PLAZAS, PUBLIC SCHOOLS, PUBLIC BUILDINGS, PIERS, GOVERNMENT AIRCRAFTS AND VESSELS, AND OTHER PUBLIC INSTITUTIONS AFTER LIVING PERSONS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION. 1. The naming of sitios, barrios, munici
cities, provinces, streets, highways, avenues,
other public thoroughfares, parks, plazas, p
public buildings, piers, government aircrafts
and other public institutions and places aft
sons is hereby prohibited, except when it
in a donation in favor of the government.
or resolution adopted contrary to the pr
Act shall be null and void.

SEC. 2. The naming of streets, highwa
bridges and public thoroughfares, parks, pla
barrios, municipalities, cities, provinces, publ
public buildings, piers, government aircrafts a
and other public institutions and places after l
sons, except those made pursuant to existing
Congress, which are still in effect on the da
approval of this Act, are hereby declared null
and the proper authorities are hereby directed t

the corresponding changes within six months after the approval of this Act

SEC. 3. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 696

[REPUBLIC ACT No. 1060]

AN ACT INCREASING THE PENALTY FOR THE CRIME OF MALVERSATION OF PUBLIC FUNDS OR PROPERTY, BY AMENDING ARTICLE TWO HUNDRED SEVENTEEN OF THE REVISED PENAL CODE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Article two hundred seventeen of the Revised Penal Code is amended to read as follows:

"ART. 217. *Malversation of public funds or property—Presumption of malversation.*—Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

"1. The penalty of *prisión correccional* in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed two hundred pesos.

"2. The penalty of *prisión mayor* in its minimum and medium periods, if the amount involved is more than two hundred pesos but does not exceed six thousand pesos.

"3. The penalty of *prisión mayor* in its maximum period to *reclusión temporal* in its minimum period, if the amount involved is more than six thousand pesos but is less than twelve thousand pesos.

"4. The penalty of *reclusión temporal* in its medium and maximum periods, if the amount involved is more than twelve thousand pesos but is less than twenty-two [illegible]sand pesos. If the amount exceeds the latter, the [illegible] shall be *reclusión temporal* in its maximum period [illegible]*perpetua.*

[illegible]ses, persons guilty of malversation shall also [illegible]nalty of perpetual special disqualification and [illegible] to the amount of the funds malversed or [illegible]otal value of the property embezzled.

[illegible] of a public officer to have duly forthcoming [illegible]ds or property with which he is chargeable, [illegible]d by any duly authorized officer, shall be [illegible] evidence that he has put such missing funds [illegible]y to personal uses."

[illegible]This Act shall take effect upon its approval.

[illegible]ed, June 12, 1954.

H. No. 1086

[REPUBLIC ACT No. 1061]

AN ACT AUTHORIZING THE APPROPRIATION OF THE SUM OF FIFTY THOUSAND PESOS FOR THE ESTABLISHMENT OF A BREEDING STATION IN THE ISLAND OF TABLAS, PROVINCE OF ROMBLON.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of fifty thousand pesos or so much thereof as may be necessary is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated, for the establishment of a breeding station in the Island of Tablas, Province of Romblon, on a suitable public or private land of not less than twenty-five hectares that may be reserved or acquired for the purpose; said sum to be spent by the Director of Animal Industry, subject to the approval of the Secretary of Agriculture and Natural Resources, for the purchase of breeding animals; for the purchase of supplies and materials; for the construction of buildings, sheds, corrals and other structures; for the establishment of water system; for salaries and wages; and for such other expenses as may be necessary to carry out the purposes of this Act.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1190

[REPUBLIC ACT No. 1062]

AN ACT GRANTING TO MUNICIPAL COUNCILS GREATER AUTONOMY IN THE PREPARATION OF THE MUNICIPAL BUDGETS, AMENDING FOR THIS PURPOSE CERTAIN SECTIONS OF THE REVISED ADMINISTRATIVE CODE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Sections two thousand two hundred ninety-five, two thousand two hundred ninety-six, two thousand two hundred ninety-seven and two thousand two hundred ninety-nine of the Revised Administrative Code, as amended, are further amended to read as follows:

"SEC. 2295. *Municipal budget.*—The municipal [illegible] shall present to the mayor, not later than [illegible] before the beginning of each fiscal year, a [illegible] detailed statement of the actual receipts and [illegible] of the municipality during the first three qua[illegible] current fiscal year and the estimated receip[illegible] ensuing fiscal year. The provincial treasurer s[illegible] to the reasonable probability of realizing the[illegible] receipts for the ensuing fiscal year as prepar[illegible] municipal treasurer.

"Within the same period, the heads of the various [illegible] in the municipal government shall submit to the[illegible]

a statement of the proposed expenditures recommended by them for their respective offices during the ensuing fiscal year. Upon receiving the foregoing statements, the mayor shall prepare the municipal budget for the ensuing fiscal year. The said budget shall contain an estimate of receipts as submitted by the municipal treasurer duly certified by the provincial treasurer and his proposed expenditures for the ensuing fiscal year.

"The proposed expenditures for salaries and wages shall specify the number of positions, their respective designations, and the rates of salaries and wages. In case a reduction of salaries and wages is necessary, such reduction shall be general in character, and the percentage thereof shall be uniform for similar rates of salaries and wages and in case of abolition of position the action of the municipal council shall not become effective except upon approval by the Secretary of Finance.

"The mayor shall submit the said budget to the council not later than twenty days before the beginning of the fiscal year.

"SEC. 2296. *Appropriation ordinance.*—Upon receipt of the budget, the municipal council shall, on the basis thereof, enact the general appropriation ordinance, including therein all statutory and contractual obligations of the municipality and upon enactment by the council and approval by the mayor, the ordinance shall, on the date therein fixed for its effectivity and subject to appeal to the provincial board as hereinafter provided, be in full force and effect: *Provided however,* That if the aggregate amount so appropriated exceeds the said estimated receipts, then the ordinance shall be effective only when approved by the Secretary of Finance. If the council shall fail to enact the general appropriation ordinance before the beginning of the ensuing fiscal year, and pending approval of the said general appropriation ordinance, the corresponding ordinance for the preceding fiscal year shall be deemed reenacted. Changes in the general appropriation ordinance may be effected by supplemental budgets prepared and adopted in the same manner as the annual budget.

"SEC. 2297. *Appeal to the provincial board.*—In case the head of any office is dissatisfied with the appropriation ordinance approved by the municipal council, he may appeal to the provincial board from the action of the ...il within ten days after he is advised of such action. ...peal shall specify the portion of the appropriation ...e objected to and shall state the grounds for the ... The provincial board shall decide the appeal ...ty days after receipt thereof, and its decision ... *Provided,* That no favorable action on any ...shall be taken by the provincial board if the ...ves an increase in any item of appropriation ...crease will result in exceeding the percentage ...tion two thousand two hundred ninety-nine, or ...g the aggregate amount appropriated in the ... beyond the estimated receipts.

... 2299. *General limitation upon amount expendable ...ries and wages.*—Except as hereinbelow provided, ...all not be expended during any fiscal year for ... and wages of municipal officials and employees of ... description, excluding those employed on public

works, in municipalities of the first class–A more than fifty-five *per centum*, in municipalities of the first class-B more than sixty *per centum*, in municipalities of the first class more than sixty-five per centum, in municipalities of the second class more than seventy *per centum*, in municipalities of the third class more than seventy-five *per centum*, in municipalities of the fourth class more than eighty-five *per centum*, of the annual revenues accruing to the municipal general funds during said fiscal year, exclusive of all balances carried forward from preceding years, and any and all appropriations, loans, or gifts made from national, provincial, or private funds.

"With the approval of the Secretary of Finance a municipality may, for justifiable cause, exceed the foregoing percentages under such limitations as may be prescribed by the said Secretary."

SEC. 2. Section two thousand two hundred ninety-eight of the same Code, is hereby repealed.

SEC. 3. This Act shall take effect upon its approval

Approved, June 12, 1954.

H. No. 1191

[REPUBLIC ACT No. 1063]

AN ACT GRANTING PROVINCIAL BOARDS GREATER AUTONOMY IN THE PREPARATION OF THE PROVINCIAL BUDGET, AMENDING FOR THIS PURPOSE CERTAIN SECTIONS OF THE REVISED ADMINISTRATIVE CODE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Sections two thousand one hundred nineteen and two thousand one hundred twenty of the Revised Administrative Code, as amended, are further amended to read as follows:

"SEC. 2119. *Detailed statement of receipts and expenditures.*—On or before the fifteenth day of April of each year, the provincial treasurer shall present to the provincial governor a certified detailed statement of all receipts and expenditures pertaining to the preceding fiscal year and to the current fiscal year up to and including March thirty-first, together with an estimate of the receipts and expenditures for the remainder of the current fiscal year and also an estimate of the receipts for the ensuing fiscal year. Within the same period the heads of the various offices of the provincial government shall submit to the provincial governor a statement of the proposed expenditures recommended by them for their respective offices during the ensuing fiscal year. Upon receipt of the foregoing statements the provincial governor shall prepare the budget for the ensuing fiscal year. The said budget shall consist of an estimate of receipts as submitted by the provincial treasurer and his proposed expenditures for the ensuing fiscal year.

"The proposed expenditures for salaries and wages shall specify the number of positions, their respective designations or rate of salaries and wages which should not exceed the standard rate fixed by law or regulation. In

reduction of salaries and wages becomes necessary such reduction shall be general in character, and the percentage thereof shall be uniform for similar rates of salaries and wages. Abolitions of positions shall not take effect except upon approval by the Secretary of Finance.

"The provincial governor shall submit the budget to the provincial board not later than May sixteen of the year."

"SEC. 2120. *Estimate of revenues and receipts for current year—Annual provincial budget.*—Immediately upon receipt of the statement of receipts and expenditures from the provincial governor, the provincial board, upon the basis of such estimated income, shall make detailed appropriations covering the estimated expenditures for the year. The statement of receipts and expenditures for the preceding year, together with the estimates and appropriations by the provincial board for the current year, shall be known as the annual provincial budget. If the said budget appropriates an aggregate amount not exceeding the estimated receipts for the ensuing year after provisions shall have been made for the statutory and/or current contractual obligations of the province it shall, on the date therein fixed for its effectivity, be in full force and effect: *Provided, however,* That if the aggregate amount so appropriated exceeds the said estimated receipts, then the budget shall be effective only when approved by the Secretary of Finance: *Provided, further,* That if the Secretary of Finance takes no action thereon within sixty days after submission to him, then said budget shall be in full force and effect. If the provincial board fails to enact the budget before the beginning of the ensuing fiscal year, or pending the approval of the budget by the Secretary of Finance, the annual provincial budget for the preceding fiscal year shall be deemed reenacted and be in effect until a new budget is duly enacted and approved. Changes in the estimates and appropriations may be made from time to time during the year by supplemental budgets in the same manner as the annual budget: *Provided,* That no changes shall be made to appropriations made for health without first consulting the chief of the sanitary division."

SEC. 2. Article VII, Chapter fifty-six of the same Code is amended by inserting between sections two thousand one hundred twenty and two thousand one hundred twenty-one a new section, to be known as section two thousand one hundred twenty–A, which shall read as follows:

"SEC. 2120–A. *Appeal by Head of Office to Secretary of Finance.*—In case the head of any office is dissatisfied ith the budget approved by the provincial board, he may al such action of the board to the Secretary of Finance n ten days after he is advised of such action. The shall specify the portion of the budget objected to hall state the grounds for the objection. The Secre- Finance shall decide the appeal within thirty days otice of the appeal."

3. Article VIII, Chapter fifty-six of the same Code nded by inserting between sections two thousand dred twenty-one and two thousand one hundred wo a new section, to be known as section two d one hundred twenty-one–A, which shall read as vs:

"SEC. 2121–A. *General limitation upon amount expendable for salaries and wages.*—Except as hereinbelow provided, there shall not be expended during any fiscal year for salaries and wages of provincial officials and employees an amount in excess of the following percentages of the ordinary and regular income that accrued to the general fund during the preceding fiscal year, exclusive of all balances carried forward from the preceding fiscal year, transfer from other funds, and all receipts from loans, aids or gifts from government or private funds.

	Per cent
First class A provinces	40
First class B provinces	45
First and second class provinces	50
Third class provinces	55
Fourth class provinces	60
Fifth class provinces	70

The President of the Philippines may, upon recommendation of the Department of Finance, authorize any province to exceed such percentages under such conditions as he may prescribe."

SEC. 4. All acts, executive orders or parts thereof in conflict with the provisions of this Act are repealed.

SEC. 5. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1256

[REPUBLIC ACT NO. 1064]

AN ACT TO PERMIT REGULAR ENLISTED MEN WHO BECOME RESERVE OFFICERS AFTER THE PRESCRIBED TRAINING AND ARE CALLED TO ACTIVE DUTY AS RESERVE OFFICERS TO REENLIST AND REGAIN THEIR PREVIOUS NONCOMMISSIONED RANKS UPON THEIR REVERSION TO INACTIVE STATUS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Regular enlisted men, who become reserve officers after the prescribed officer training and are called to active duty as reserve officers, shall, within sixty days be permitted to reenlist and regain their previous noncommissioned ranks in the Regular Force upon their re version to inactive status, if they so desire: *Provide* That if such reserve officers complete at least two of active commissioned service, they may be re in the grade next higher than the permanent enliste previously held: *Provided, further,* That the p therein authorized shall not apply to officers w reverted for cause: *And provided, finally,* That commissioned officers herein referred to shall not reserve officer commissions.

SEC. 2. The provisions of this Act shall apply enlisted men referred to in the preceding section wh reverted to inactive status before the approval of th *Provided,* That they possess the necessary requi

for enlistment and are not over thirty-five years of age at the time they apply for reenlistment under this Act.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1297

[REPUBLIC ACT No. 1065]

AN ACT TO EXTEND THE EFFECTIVITY OF REPUBLIC ACT NUMBERED SIX HUNDRED, ENTITLED "AN ACT TO PRESCRIBE A GRADUATED SCALE FOR THE INCOME TAX ON CORPORATIONS BY AMENDING SECTIONS TWENTY-FOUR AND FIFTY-FOUR OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED AND SIXTY-SIX, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES."

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section three of Republic Act Numbered Six hundred, as amended by Republic Act Numbered Eight hundred and sixty-eight, is further amended to read as follows:

"SEC. 3. The provisions of this Act shall apply to income received from January first, nineteen hundred and fifty-one to December thirty-one, nineteen hundred and fifty-five, after the expiration of which later date the provisions of sections twenty-four and fifty-four of the National Internal Revenue Code, as amended, shall again be in full force and effect."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1441

[REPUBLIC ACT No. 1066]

AN ACT TO AMEND SECTION TWENTY-NINE OF COMMONWEALTH ACT NUMBERED ONE, OTHERWISE KNOWN AS THE NATIONAL DEFENSE ACT, AS AMENDED BY COMMONWEALTH ACT NUMBERED FIVE HUNDRED SIXTY-NINE, INCORPORATING HONORABLY DISCHARGED ENLISTED MEN OF THE ARMED FORCES OF THE PHILIPPINES AND OFFICERS AND ENLISTED MEN OF THE PHILIPPINE SCOUTS INTO THE RESERVE FORCE, AND FOR OTHER PURPOSES.

acted by the Senate and House of Representatives he Philippines in Congress assembled:

N 1. Section twenty-nine of Commonwealth Act d One, otherwise known as the National Defense amended by Commonwealth Act Numbered Five d sixty-nine, is hereby amended to read as follows:

. 29. Henceforth, enlisted men of the Armed Forces Philippines and Filipinos commissioned or enlisted Armed Forces of the United States who retained or

reacquired their Philippine citizenship except those discharged for physical disability, who shall have served at least three years and honorably discharged therefrom shall be incorporated in the Reserve Force in the grade in which discharged, and assigned to an organization thereof, subject to annual active duty training in the same manner as any other reservist: *Provided,* That any other honorably discharged personnel of the United States Armed Forces not otherwise disqualified may be mustered in the Reserve Force: *And provided, further,* That nothing in this provision shall prevent the dropping from the rolls of the Reserve Force of the name of any person who shall subsequently become not qualified as a reservist."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1443

[REPUBLIC ACT NO. 1067]

AN ACT TO AMEND CERTAIN PROVISIONS OF REPUBLIC ACT NUMBERED ONE HUNDRED THIRTY-EIGHT.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section two of Republic Act Numbered One hundred thirty-eight is hereby amended to read as follows:

"SEC. 2. The pay and allowances of military personnel are prescribed by law, and as long as a person is in the active military service of the Philippines he is entitled to receive pay and allowances corresponding to his rank or grade, unless said pay and allowances, or any portion thereof, have not accrued, or have been withheld or forfeited, under this Act or any other provision of law."

SEC. 2. Sections thirteen, fourteen and fifteen of Republic Act Numbered One hundred and thirty-eight are hereby amended to read, respectively, as follows:

"SEC. 13. No person in the military service who shall be absent from his regular duties on account of the effects of a disease, sickness or injury, which is directly attributed to and immediately follows his own misconduct, willful failure or the intemperate use of drugs or alcoholic liquor, shall, except as hereinafter provided, be entitled to any pay, as distinguished from allowances, for th period of such absence.

"SEC. 14. No person in the military service who be absent from his regular duties on account o direct effects of a venereal disease due to his own conduct, shall, except as hereinafter provided, be e to any pay, as distinguished from allowances, f period of such absence: *Provided,* That such abse within a period of one year following the appearan the initial symptoms of such venereal disease, regar of whether the appearance of the initial symptoms o prior or subsequent to the date of entry into the servi

"SEC. 15. Each person whose pay, as distinguished from allowances, is forfeited for a period in excess of one month at any one time pursuant to the provisions of sections thirteen and fourteen of this Act, shall be paid for necessary personal expenses the sum of five pesos for each full month during which his pay is so forfeited."

SEC. 3. Section eighteen of Republic Act Numbered One hundred thirty-eight is hereby amended to read as follows:

"SEC. 18. An enlisted man awaiting trial by court-martial, or the result thereof, is not entitled to receive pay, as distinguished from allowances, until the result of the trial is known: *Provided,* That any enlisted man who is placed on a full duty status and performs regular duties while awaiting trial by court-martial, or the result thereof, shall be entitled to receive all his pay and allowances for the period of such duty, unless the same shall have been lawfully forfeited by the approved sentence of a court-martial prior to actual payment thereof to the enlisted man. For the purposes of this section, the restoration to full duty status of enlisted men awaiting trial by court-martial, or the result thereof, shall be as directed by the Chief of Staff, with the approval of the Secretary of National Defense."

SEC. 4. Section twenty-one of Republic Act Numbered One hundred thirty-eight is hereby amended to read as follows:

"SEC. 21. (*a*) Except as hereinafter provided in this section, officers and enlisted men lawfully detained or provisionally released on bail by the civil authorities pending the trial or final determination of their cases in the civil courts, or serving sentence of imprisonment, will receive no pay and allowances for the period of their absence from military control or custody.

"(*b*) Except as hereinafter provided in this section, officers and enlisted men who have returned to military control following their release on bail or transfer to the custody of their respective commanding officers for sake-keeping, pending the trial or final determination of their cases in the civil courts, will receive no pay, as distinguished from allowances, for any period of absence from their regular duties by reason of the pendency of their cases before the civil courts.

"(*c*) Should any officer or enlisted man falling under subsections (*a*) or (*b*) of this section be unconditionally released by the civil authorities without trial, or after trial acquittal, or if the case against him before the civil s is dismissed or otherwise terminated without con-n, or if he shall have been sentenced to the penalty *stierro* under Article two hundred and forty-seven of evised Penal Code, he shall be entitled to receive the d allowances, or pay, as the case may be, for the of his absence from military control and/or regular s: *Provided,* That the status of a person as absent out leave or in desertion immediately prior to the time is arrest or detention by the civil authorities, and/or ving his provisional or unconditional release there-, shall continue until his return to actual military

control, irrespective of the final outcome of his case before the civil courts.

"(*d*) Any officer or enlisted man who has returned to military control and performed regular duties pending the trial or final determination of his case before the civil courts, shall be entitled to receive all his pay and allowances during the period such duties have been performed, irrespective of the outcome of his case. The restoration to, or relief from, full duty status of officers and enlisted men who have lawfully returned to military control or custody pending the trial or final determination of their cases before the civil courts, shall be as directed by the Chief of Staff, with the approval of the Secretary of National Defense: *Provided,* That nothing herein shall be construed as relieving the proper commanding officer or officers of military personnel accused before the civil courts from the responsibility of producing the person of the accused at the time and place required by the lawful order of the proper civil authorities.

"(*e*) Nothing in this section shall operate or be construed to repeal or in any way modify existing laws and regulations relating to the suspension from office of any officer by the President."

SEC. 5. Republic Act Numbered One hundred thirty-eight is hereby further amended by inserting the following provisions between sections twenty-three and twenty-four thereof:

"ARTICLE VII

"WITHHOLDING OR STOPPAGE OF PAY TO SATISFY PECUNIARY LIABILITY TO THE GOVERNMENT"

"SEC. 23–A. (*a*) When it has been administratively determined, under such rules and regulations as the Secretary of National Defense shall prescribe, that an officer or enlisted man is pecuniarily liable to the Government for the loss, damage or deterioration of government property resulting from his abuse or negligence in the keeping, use or disposition of such property, the Chief of Staff may direct the proper disbursing officer to collect the amount of such liability in monthly installments by deduction from the monthly pay, as distinguished from allowances, of such officer or enlisted man: *Provided,* That the aggregate sum of such deductions for any month shall not exceed two-thirds of the payee's authorized rate of pay for that month: *Provided, further,* That whenever any part of the pay of an officer or enlisted man for a certain month shall have been legally forfeited or otherwise legally withheld, no deduction under this subsection shall be so made reduce the pay actually received by the payee fo particular month below one-third of his authorize of pay therefor. An administrative finding, determi or order made by the Secretary of National Def the Chief of Staff pursuant to the provisions of t section shall be final and conclusive upon all of the Executive Department.

"(*b*) Whenever, upon the final settlement of the acc of any accountable or disbursing officer of the Armed F of the Philippines, the Auditor General, or his auth representative, shall have found, and certified to the

ence of, a balance of public money to be due the Government from the said officer, the Secretary of National Defense may, in his discretion, direct that the officer's monthly pay, or any portion thereof, be withheld and applied to the full restitution or reimbursement of the amount due the Government: *Provided,* That, in his discretion, the Secretary of National Defense may direct that all or a portion of the pay of any such accountable or disbursing officer be withheld pending the final settlement or adjustment of his accounts: *Provided, further,* That nothing in this subsection shall operate or be construed as precluding any other remedy under existing laws, for the collection of any indebtedness to the Government, or for the restitution or reimbursement of public funds by accountable or disbursing officers.

"(*c*) The withholding of, or deduction from, the pay of any officer or enlisted man pursuant to this section need not await, or be made to depend upon, the result of any criminal proceeding instituted against him for misappropriation, embezzlement, malversation, loss or damage to Government property or funds, and other offenses connected with the custody, care or use of Government property and funds."

SEC. 6. This Act shall take effect upon its approval. Nothing in this Act shall operate or be construed to affect pay and allowances corresponding to any period prior to the effectivity of this Act, nor to determinations of entitlement or non-entitlement thereto.

Approved, June 12, 1954.

H. No. 1444

[REPUBLIC ACT No. 1068]

AN ACT TO AMEND SECTION THIRTY-ONE OF COMMONWEALTH ACT NUMBERED ONE, AS AMENDED BY COMMONWEALTH ACT NUMBERED THREE HUNDRED EIGHTY-FIVE AND COMMONWEALTH ACT NUMBERED FIVE HUNDRED SIXTY-NINE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section thirty-one of Commonwealth Act Numbered One, as amended by Commonwealth Act Numbered Three hundred eighty-five and Commonwealth Act Numbered Five hundred sixty-nine, is hereby further [illegible]nded to read as follows:

"[illegible]C. 31. The President is authorized to appoint to the [illegible]ry Academy annually, subject to such physical and [illegible]al examination as he may prescribe, the number of [illegible] necessary to maintain the Cadet Corps at a strength [illegible]to exceed three hundred and fifty at any one time. [illegible] shall be selected from among candidates as here- [illegible] provided. Candidates for admission must be single [illegible]must never have been married, in good physical [illegible]ition, not less than seventeen nor more than twenty- [illegible]ears of age on the first of April of the year of [illegible]sion, and shall be nominated by the member of [illegible]ess, except as hereinafter provided, each of whom

may nominate any number of candidates. The President shall appoint from among those who pass the physical and mental examinations with the highest ratings, the number or numbers necessary to fill the existing vacancies: *Provided,* That a quota of three members of the Cadet Corps, hereinafter referred to as Congressional quota shall be allotted to each Congressional District: *Provided, further,* That in case no candidates from a given Congressional District attain the required minimum ratings, the vacancies in the Congressional quota shall be filled by the President from successful candidates at large with the highest ratings: *Provided, still further,* That a quota of four members of the Cadet Corps shall be filled by the President directly, without Congressional nomination: *Provided, still further,* That a quota of eight members of the Cadet Corps shall be filled by the President directly, without Congressional nomination, from qualified candidates with the highest ratings who are enlisted men of the Regular Force and who have completed at least one year of active military service and are in active status at the time of admission: *Provided, still further,* That a quota of four members of the Cadet Corps shall be filled by the President directly, without Congressional nomination, from qualified candidates with the highest ratings who are sons of enlisted men who are serving or who have honorably served for a period of at least six months in the Armed Forces of the Republic of the Philippines or of the Commonwealth of the Philippines, of duly recognized guerrilla units or of the United States Armed Forces prior to July fourth, nineteen hundred and forty-six: *Provided, still further,* That physically qualified sons of military personnel who have been cited for and awarded the medal for valor may be appointed as cadets by the President directly, without Congressional nomination, and mental examination, on the condition that the number of such cadets shall not be included in the Cadet Corps strength of three hundred and fifty as herein provided: *And provided, finally,* That a quota of one foreign cadet per class may be allotted to each foreign country maintaining diplomatic relations with the Republic of the Philippines on the condition that the pay and allowances, *per diems* and traveling expenses of such cadet be borne by his country. Foreign cadets shall pass a qualifying mental examination and the number thereof authorized to train at the Military Academy shall not be included in the Cadet Corps strength of three hundred and fifty as herein provided.

"The pay and allowances of students at the Military Acad
emy shall be fixed by the President.

"Any student, except foreign cadets, who shall,
entrance to the Academy and before completion o
prescribed course of training, be found to be phys
unfit for military duty by reason of injury or
incident to the service, shall be retired with the
cadet and shall be entitled to the retired pay and a
of second lieutenant of the Regular Force.

"Upon satisfactory completion of the course o
tion at the Military Academy candidates, excep
cadets, shall be commissioned second lieutenant
Regular Forces notwithstanding the age limits for

ment in the regular force prescribed in section four (*b*) of Republic Act Numbered Two hundred ninety-one, with relative rank in the order of final general standing as determined by the Academic Board, and approved by the Chief of Staff: *Provided,* That any cadet who is discharged from the Academy prior to the completion of the prescribed course of instruction shall not be commissioned in the Regular or Reserve Forces until after the members of his class have been graduated from the Military Academy and duly commissioned: *Provided, further,* That any cadet dismissed from the Academy for hazing shall not thereafter be eligible for appointment as a commissioned officer in the Regular or Reserve Forces.

"The Academic Board of the Philippine Military Academy shall be composed of the Superintendent, the Dean of the Corps of Professors, the Commandant of Cadets, and the heads of the departments and shall have the power to confer the degree of bachelor of science under such rules and regulations as the Chief of Staff may prescribe, upon all cadets who may hereafter satisfactorily complete the approved course of studies.

"The Chief of Staff shall have authority to grant graduation leaves of absence with full pay to all graduates of the Military Academy, who receive commissions in the Regular Force, for a period not exceeding one month effective upon the date of graduation.

"Cadets may be granted leaves of absences from the Military Academy under such rules and regulations as the Chief of Staff may prescribe.

"Academic leaves of absences without deduction from pay and allowances may be authorized for the Superintendent, professors, assistant professors, instructors and other officers of the Military Academy for the entire period of the suspension of the ordinary academic studies under such rules and regulations as the Chief of Staff may prescribe: *Provided,* That officers of the Reserve Force assigned for duty at the Military Academy shall be entitled to the same leave privileges as are authorized the officers of the Regular Force."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1445

[REPUBLIC ACT NO. 1069]

AN ACT TO ESTABLISH THE CHAPLAIN SERVICE AS A REGULAR COMPONENT OF THE ARMED FORCES OF THE PHILIPPINES, BY AMENDING ERTINENT PROVISIONS OF REPUBLIC ACT UMBERED TWO HUNDRED NINETY-ONE, THERWISE KNOWN AS THE "ARMED FORCES FICER PERSONNEL ACT OF NINETEEN HUN- D AND FORTY-EIGHT," AS AMENDED.

ted by the Senate and House of Representatives e Philippines in Congress assembled:

1. Paragraphs (*c*), (*d*), and (*f*) of section one Act Numbered Two hundred ninety-one, other- n as the "Armed Forces Officer Personnel Act

of Nineteen hundred and forty-eight," are hereby amended to read as follows:

"(*c*) Appointments of officers in commissioned officer grades below that of brigadier general in the Regular Force shall be made in the Air Force, in the Navy, in the Judge Advocate General's Service, in the Chaplain Service, and in each of the several corps of the Medical Service; but otherwise they shall be made in the Regular Force without specification of branch, arm or service. Those appointed without specification of branch, arm, or service shall be assigned, and may from time to time be transferred or reassigned, by the Secretary of National Defense in the several branches, arms and services of the Regular Force, excluding the Judge Advocate General's Service, the Chaplain Service and the several corps of the Medical Service, according to the professional qualifications of the officers concerned and the needs of the branches, arms and services: *Provided*, That transfer to but not from the Air Force and the Navy shall be permitted.

"(*d*) The authorized active list of commissioned officer strength of the Air Force; of the Navy; of the Judge Advocate General's Service; of the Chaplain Service; of each of the several corps of the Medical Service; and of each of the several corps, arms and services of the Regular Force in which officers are assigned as distinguished from those in which officers are appointed, shall from time to time, be determined by the Secretary of National Defense within the authorized active list of commissioned officer strength of the Regular Force and within any limitations provided by law.

"(*f*) Persons now vested with office in the Regular Force in the several commissioned officer grades under appointments as officers in the several branches, arms and services, excluding those appointed in the Air Force, Navy, Judge Advocate General's Service, Chaplain Service, and the several corps of the Medical Service, shall be deemed to hold such offices under appointments in the Regular Force without specification of branch, arm or service specified in their appointments."

SEC. 2. Paragraphs (*b*) (1) and (*c*) of section three of Republic Act Numbered Two hundred and ninety-one, otherwise known as the "Armed Forces Officer Personnel Act of Nineteen hundred and forty-eight," are hereby amended to read as follows:

"(*b*) (1) The authorized numbers in each of the several grades in each of the several promotion lists shall be prescribed by the Secretary of National Defense by a schedule of percentages in each grade for each list, whic[h] schedule of percentages may be different for each prom[o]tion list but the numbers thus authorized in each of t[he] several grades in each of the several promotion li[sts] shall not exceed in any promotion list the following [per]centages of the total officer strength authorized f[or] Armed Forces: four *per centum* in grade of color[el] *per centum* in grade of lieutenant-colonel, sixteen *pe[r]* *tum* in grade of major, twenty-one *per centum* in g[rade] of captain, and forty-eight and one-half *per centum* i[n] the combined grades of first and second lieutenants: *Pr[o]* *vided*, That in the Medical Corps, Dental Corps, J[udge]

Advocate General's Service and Chaplain Service there shall be no second-lieutenants, and the numbers authorized in the grade of first lieutenant in such promotion list shall be all those not authorized in higher grade: *Provided, further,* That numbers may be authorized for any grade in any promotion list in lieu of authorizations in higher grades: *And provided, further,* That this provision shall not operate to require a reduction in permanent grade of any officer in any promotion list now holding permanent appointment in any grade.

"(*c*) Promotion Lists. (1) The Regular Force promotion list shall contain the names of all promotion list officers except officers of the Air Force, Navy, Judge Advocate General's Service, Chaplain Service, and the several corps of the Medical Service.

"(2) The Air Force promotion list shall contain the names of all promotion list officers of the Air Force.

"(3) The Navy promotion list shall contain the names of all promotion list officers of the Navy.

"(4) The Judge Advocate General's Service promotion list shall contain the names of all promotion list officers of the Judge Advocate General's Service.

"(5) The Medical Corps promotion list shall contain the names of all promotion list officers of the Medical Corps.

"(6) The Dental Corps promotion list shall contain the names of all promotion list officers of the Dental Corps.

"(7) The Veterinary Corps promotion list shall contain the names of all promotion list officers of the Veterinary Corps.

"(8) The Medical Administrative Corps promotion list shall contain the names of all promotion list officers of the Medical Administrative Corps.

"(9) The Nurse Corps promotion list shall contain the names of all promotion list officers of the Nurse Corps.

"(10) The Chaplain Service promotion list shall contain the names of all promotion list officers of the Chaplain Service."

SEC. 3. Paragraph (*c*) of section four of Republic Act Numbered Two hundred and ninety-one, otherwise known as the "Armed Forces Officer Personnel Act of Nineteen hundred and forty-eight," as amended by Republic Act Numbered Four hundred and eighty, is hereby further amended to read as follows:

"(*c*) Except as hereinafter authorized or unless otherwise expressly provided by law, all initial appointments of Regular Officers shall be in the grade of second lieutenant. Priority in filling vacancies in the grade of second lieutenant will be given: first, to graduates of the Philippine Military Academy or of the United States Military Naval Academies, or Philippine Air Force or United tates Air Force Flying Schools; second, to honor grads of senior military training units in schools and es; third, to enlisted men who, at the time of apnent, shall have served for at least one full term listment in the Armed Forces of the Philippines have such other qualifications as may be prescribed the Secretary of National Defense; and fourth, others ho shall have such qualifications as the Secretary of onal Defense shall prescribe: *Provided,* That original ntments in the Judge Advocate General's Service, the

Chaplain Service, the Medical Corps, and the Dental Corps shall be in the grade of first lieutenant from among applicants who, at the time of appointment, shall be not less than twenty-five nor more than thirty-five years of age, and in addition shall have engaged in the practice of law for at least two years, if appointment is to be made in the Judge Advocate General's Service; shall have engaged in the practice of the ministry or priesthood for at least two years, if appointment is made in the Chaplain Service; and shall have engaged in the practice of medicine or dentistry for at least two years, if appointment is to be made in the Medical Corps or Dental Corps, as the case may be: *Provided, further,* That the President may appoint professors without military rank for the Military Academy, with such compensation as he may prescribe or in such commissioned grades of the Regular Force as he may determine, such professors, associate professors and assistant professors, to be carried as separate roster and in addition to the number of commissioned officers prescribed."

SEC. 4. Paragraph (*b*) of section six of Republic Act Numbered Two hundred and ninety-one, otherwise known as the "Armed Forces Officer Personnel Act of Nineteen hundred and forty-eight," is hereby amended to read as follows:

"(*b*) Whenever there are vacancies in any promotion list in the grade of first-lieutenant and captain, officers of that list in the grade of second-lieutenant and first-lieutenant may be promoted to and appointed in the grade of first-lieutenant and captain, respectively, before completion of three years' and seven years' service, respectively: *Provided,* That the number of years of service required for the purpose of subsections (*a*) and (*b*) of this section, as necessary for promotion in the Air Force, Navy, Judge Advocate General's Service, Chaplain Service, and the several corps of the Medical Service, shall be as the Secretary of National Defense shall prescribe."

SEC. 5. Paragraph (*c*) of section nine, Republic Act Numbered Two hundred and ninety-one, otherwise known as the "Armed Forces Officer Personnel Act of Nineteen hundred and forty-eight," is amended to read as follows:

"(*c*) The President shall select from among officers in the permanent grade of brigadier-general and colonel the officer who, in his opinion, is best qualified for the office of Chief of Staff: *Provided,* That an officer in the permanent grade of colonel must have completed at least one year's service in said grade before being nominated or appointed to occupy the office of Chief of Staff: *Provided further,* That officers appointed in the Judge Advoc General's Service, the Chaplain Service, the several c of the Medical Service, shall not be eligible for nomi or appointment in the office of Chief of Staff."

SEC. 6. All references to the Air Corps and Naval F in the "Armed Forces Personnel Act of Nineteen hun and forty-eight" shall, henceforth pertain to the Philipp Air Force and to the Philippine Navy, respectively.

SEC. 7. This Act shall take effect upon its approv

Approved, June 12, 1954.

H. No. 1446

[REPUBLIC ACT No. 1070]

AN ACT AUTHORIZING THE PRESIDENT TO ISSUE APPROPRIATE CERTIFICATES OF RECOGNITION TO WIDOWS, PARENTS AND NEXT OF KIN OF MEMBERS OF THE ARMED FORCES OF THE PHILIPPINES WHO LOST OR SHALL LOSE THEIR LIVES IN LINE OF DUTY.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The President is hereby authorized to issue an appropriate certificate or token acknowledging the debt of the Filipino people to widows, parents and next of kin of members of the Armed Forces of the Philippines who have lost or shall lose their lives in line of duty during World War II, or during any war or period of armed conflict involving the security of the Philippines.

SEC. 2. Such certificates of appreciation shall be issued to such widows, parents and next of kin upon application to the Chief of Staff of the Armed Forces of the Philippines. As used in this Act:

a. The term "widow" shall include widower.

b. The term "parents" shall include mother, father, step-mother, step-father, mother or father through adoption, and foster parents who stood in *loco parentis*.

c. The term "next of kin" shall include children, step-children, children through adoption, brothers, sisters, half-brothers and half-sisters.

d. The term "World War II" shall include the period extending from December eight, nineteen hundred and forty-one to July twenty-fifth, nineteen hundred and forty-seven.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1525

[REPUBLIC ACT No. 1071]

AN ACT TO REGULATE THE SALE OF VETERINARY BIOLOGICS AND MEDICINAL PREPARATIONS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. For purposes of this Act, the terms "vete-rinary biologics", "veterinary medicinal preparations", vestock", "poultry", and "house pets" are to be construed ean:

) Veterinary biologics are preparations which include m and bacterial and viral products from biological ratories.

(*b*) Serum for veterinary use, be it normal or immune, e those for the diagnosis, treatment and prevention of ases of different species of livestock, poultry and house

) Bacterial and viral products for veterinary use, ding vaccines and antigens, are those for the diagnosis

of, and immunization against diseases of livestock, poultry and house pets.

(*d*) Medicinal preparations for veterinary use, are those pharmaceutical products for the treatment and prevention of diseases as well as for other purposes in the protection and improvement of livestock, poultry and house pets.

(*e*) Livestock comprises the mammalian animals, and poultry, the avian animals which are domesticated and kept or raised in backyards or on farms.

(*f*) House pets are those animals which are kept in nomes like the dogs, cats, rabbits, birds, etc.

SEC. 2. It shall be unlawful for any agency or store to sell to the public veterinary biologics and medicinal preparations other than registered pharmacies or drug-stores (*boticas*), biological laboratories, veterinary clinics and government veterinary agencies.

SEC. 3. The manager or proprietor of any agency, store, or entity which fails to comply with the provisions of this Act shall be guilty of misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred pesos nor more than two hundred pesos or by imprisonment for not less than thirty days nor more than six months, or by both fine and imprisonment for each offense, and it shall be the duty of the Provincial or City Fiscals where such offense is committed to prosecute all persons violating the provisions of this Act, upon proper complaint being made. All fines collected under this Act shall be paid into the treasury of the province or city where the prosecution is held.

SEC. 4. This Act shall take precedence above all existing rules and regulations regarding the sale of veterinary biologics and medicinal preparations in the Philippines.

SEC. 5. This Act shall take effect upon its approval

Approved, June 15, 1954.

H. No. 1600

[REPUBLIC ACT No. 1072]

AN ACT AMENDING ACT NUMBERED FORTY-ONE HUNDRED AND SIXTY-SIX, AS AMENDED BY COMMONWEALTH ACTS NUMBERED SEVENTY-SEVEN AND THREE HUNDRED AND TWENTY-THREE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section eight of Act Numbered Forty-one hundred and sixty-six, as amended by Commonwealth Acts Numbered Seventy-seven and Three hundred and twenty-three, is hereby further amended so as to read as follow

"SEC. 8. The Sugar Quota Administrator shall a cate among all planters engaged in the growing of su cane, the total amount of 'B' and 'C' sugar, the manu ture whereof may be permitted in any given year, provided in section five of this Act.

"The allocation of 'B' sugar quota shall be ef in the following manner:

"(*a*) Of the total quantity of 'B' sugar which may be permitted to be manufactured in any given year, sixty per cent, but in no instance less than one hundred fifty thousand four hundred fifty-five short tons thereof shall be allocated among plantation owners adherent to standard, marginal and sub-marginal mills as such standard, marginal and sub-marginal mills are defined in Executive Order Numbered Nine hundred one, dated October thirty, nineteen hundred and thirty-five, and in the manner therein provided.

"(*b*) The balance of the total quantity of 'B' sugar which may be permitted to be manufactured in any given year, after deducting the amount allocated under paragraph (*a*) hereof and the amelioration allotments provided for in paragraph (*d*) hereof shall be allocated (1) to sugarcane land owners who are not holders of any allotment as well as (2) to plantation owners who are holders of allotments whose production is in excess of their individual total 'A' and 'B' allotments, the first in proportion to their production during the 1948–1949, 1949–1950, 1950–1951, 1951–1952, 1952–1953 and 1953–1954 crop years, whichever is the largest and the second in proportion to their production in excess of their total 'A' and 'B' allotments, during the 1948–1949, 1949–1950, 1950–1951, 1951–1952, 1952–1953 and 1953–1954 crop years, whichever is the largest: *Provided, however,* That the determination of the crop year with the largest production shall be made by the Sugar Quota Administration which shall make a certification as to such production after due verification of actual production.

"(*c*) Any increase in the domestic sugar consumption requirements for any crop year shall be allocated to all plantation owners in proportion to their respective domestic allotments as determined in sub-sections (*a*) and (*b*) of this section.

"(*d*) The Sugar Quota Administrator shall be authorized to set aside and allocate equitably not more than four thousand short tons of the total domestic sugar to be used as amelioration allotment for sugarcane and sugar producers whose total allotment is less than one hundred piculs: *Provided,* That such amelioration allotment shall not be transferable except by testate or intestate succession.

"The twenty-five thousand tons of sugar quota allotted to the Philippines for export for the free market as determined by the International Agreement for the regulation of the production and marketing of sugar of 1953 and any other 'C' sugar quota shall be allocated among all plantation owners in proportion to their respective 'B' allotments as finally computed for any given crop year."

SEC. 2. The following section to be known as section ight–A is hereby inserted between sections eight and ne of Act Numbered Forty-one hundred and sixty-six, d to read as follows:

"SEC. 8–A. If after the termination of milling in ch sugar central in any milling season, the holder of allotment is not able to mill enough sugar to fill his ment for that year, that amount of such allotment h he cannot fill during such milling season shall be located by the Sugar Quota Administration to other

holders of allotments first within the same district, and then to other districts or in such other manner as may insure the filling of the quota for that year: *Provided*, That no reallocation under the provision of this section shall diminish the allotment to which the holder may be entitled in any subsequent crop year."

SEC. 3. Section nine of Act Numbered Forty-one hundred and sixty-six is hereby amended to read as follows:

"SEC. 9. The domestic allotment corresponding to each piece of land under the provisions of this Act shall be deemed to be an improvement attaching to the land entitled thereto. In the absence of milling contracts, or where such milling contracts shall have expired, such allotment shall be transferable in accordance with such rules and regulations as may be issued by the Sugar Quota Office: *Provided, however*, That the right of the plantation owner to transfer the domestic allotment attaching to the land from one milling district to another, shall not in any manner be curtailed, limited or in any way prejudiced."

SEC. 4. A section is hereby inserted after section sixteen of Act Numbered Four thousand one hundred sixty-six–A to be known as section sixteen–A to read as follows:

"SEC. 16–A. Any person who falsifies a report of production for the purpose of increasing a planter's allocation as contemplated in section eight (*b*) of this Act shall, without prejudice to any criminal liability, forfeit his allocations under this Act; and any person who shall give information which shall lead to the discovery of any falsification of reports of production shall be given fifty per cent of the planter's allocation thus forfeited."

SEC. 5. A section is hereby inserted after section eighteen of Act Numbered Four thousand one hundred sixty-six to be known as section eighteen–A to read as follows:

"SEC. 18–A. Any existing legislation, executive orders, or administrative orders which are inconsistent with the provisions of this Act are hereby repealed."

SEC. 6. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1959

[REPUBLIC ACT No. 1073]

AN ACT AUTHORIZING THE APPROPRIATION THE SUM OF TWO HUNDRED THOUSAND P FOR THE CREATION OF THE CAGAYAN LEY AGRICULTURAL HIGH SCHOOL IN PROVINCE OF CAGAYAN AS A REGION TIONAL AGRICULTURAL SCHOOL OF THE TRAL LUZON AGRICULTURAL COLLEGE TO BE KNOWN AS THE CAGAYAN VALL NATIONAL AGRICULTURAL SCHOOL.

Be it enacted by the Senate and House of Representati of the Philippines in Congress assembled:

SECTION 1. The sum of two hundred thousand pes so much thereof as may be necessary, is hereby auth

to be appropriated, out of any funds in the National Treasury not otherwise appropriated, which shall be expended for the fiscal year for which the appropriation has been approved by the Director of Public Schools with the approval of the Secretary of Education for the establishment, operation and maintenance of the Cagayan Valley National Agricultural School patterned after the former Central Luzon Agricultural School. Thereafter, the necessary funds for the operation and maintenance of said school annually shall be included in the General Appropriation Act.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 2120

[REPUBLIC ACT No. 1074]

AN ACT TO AMEND REPUBLIC ACT NUMBERED SEVENTY-ONE, ENTITLED "AN ACT REQUIRING PRICE TAGS OR LABELS TO BE AFFIXED ON ALL ARTICLES OF COMMERCE OFFERED FOR SALE AT RETAIL AND PENALIZING VIOLATIONS OF SUCH REQUIREMENT."

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section one of the Republic Act Numbered Seventy-one, entitled "An Act requiring price tags or labels to be affixed on all articles of commerce offered for sale at retail and penalizing violations of such requirement" is hereby amended to read as follows:

"SEC. 1. All articles of commerce and trade offered for sale to the public at retail shall be publicly displayed with appropriate tags or labels to indicate the price of each article and said articles shall be sold uniformly and without discriminations at the stated price: *Provided,* That lumber dealers are required to tag or label lumber offered for sale to the public by indicating thereon the price and the corresponding official name of the wood so as to enable buyers to distinguish one species of wood from the others: *Provided, further,* That the Secretary of Commerce and Industry may, upon the recommendation of the Director of Commerce, exempt from time to time certain articles of commerce and trade or certain classes of establishments from the provisions of this Act. The Secretary of Commerce and Industry is hereby authorized to promulgate rules and regulations to carry into effect the provisions of this section."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 2187

[REPUBLIC ACT No. 1075]

AN ACT APPROPRIATING THE SUM OF FOUR HUNDRED FIFTY THOUSAND PESOS TO CARRY OUT THE PROVISIONS OF REPUBLIC ACT NUMBERED SEVEN HUNDRED SEVENTY-EIGHT.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of four hundred fifty thousand pesos is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, to carry out the provisions of Republic Act Numbered Seven hundred seventy-eight. Thereafter, the necessary funds shall be included in the annual General Appropriations Act.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 2485

[REPUBLIC ACT No. 1076]

AN ACT TO AMEND PARAGRAPH TWO, SECTION ONE OF REPUBLIC ACT NUMBERED NINE HUNDRED AND FORTY-EIGHT.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Paragraph two, section one of Republic Act Numbered Nine hundred and forty-eight is amended to read as follows:

"2. For the construction of the North General Hospital Building, including the purchase of the site, if necessary, and of hospital equipment; one million five hundred thousand pesos: *Provided,* That not more than two hundred thousand pesos may be used for the purchase, reclamation or development of the site."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 14, 1954.

H. No. 2447

[REPUBLIC ACT No. 1077]

AN ACT AUTHORIZING THE PURCHASE OF CERTAIN SHARES OF CAPITAL STOCK OF THE MANILA RAILROAD COMPANY OF THE PHILIPPINE ISLANDS, FOR WHICH THE GOVERNMENT HAS NOT YET SUBSCRIBED UNDER ACT NUMBERED THREE THOUSAND ONE HUNDRED SIXTEEN, AS AMENDED BY ACT NUMBERED THREE THOUSAND FOUR HUNDRED EIGHTY-FOUR AND COMMONWEALTH ACT NUMBERED THREE HUNDRED FOURTEEN.

Be it enacted by the Senate and House of Repres
of the Philippines in Congress assembled:

SECTION 1. The Secretary of Finance, with the
of the President of the Philippines, is hereby a
to purchase sixteen thousand five hundred forty sha
capital stock of the Manila Railroad Company
Philippine Islands of the par value of three million
hundred eight thousand pesos, this number of share
having been subscribed for out of seventy thousand
which the Government was authorized to subscri
under Act Numbered Three thousand one hundred
as amended by Act Numbered Three thousand fo
dred eighty-four and Commonwealth Act Numbere
hundred fourteen.

SEC. 2. The sum of three million three hundred eight thousand pesos is hereby appropriated out of any funds in the National Treasury not otherwise appropriated.

SEC. 3. The Manila Railroad Company of the Philippine Islands shall expend these funds for the acquisition and/or improvement of its rolling stock and other physical property, as the said funds are in effect a reimbursement of what the said Railroad Company had expended out of its own income for the construction of the line connecting Aloneros, Quezon, on the main line south with Pamplona, Camarines Sur, Legaspi line.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2504

[REPUBLIC ACT No. 1078]

AN ACT AUTHORIZING THE SECRETARY OF FINANCE TO PURCHASE, ON BEHALF OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES NINETEEN THOUSAND THREE HUNDRED SIXTY-FIVE SHARES OF THE CAPITAL STOCK OF THE MANILA RAILROAD COMPANY OF THE PHILIPPINE ISLANDS, AND TO PROVIDE FUNDS FOR PAYING THE VALUE OF SAID SHARES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The Secretary of Finance, with the approval of the President of the Philippines, is hereby authorized to subscribe for and purchase on behalf of the Government of the Republic of the Philippines nineteen thousand three hundred sixty-five shares of the capital stock of the Manila Railroad Company of the Philippine Islands, of the par value of three million eight hundred seventy-three thousand pesos.

SEC. 2. The Manila Railroad Company of the Philippine Islands shall expend these funds for the acquisition of new equipment or rolling stock essential to operation, and for the improvement of its warehousing facilities.

SEC. 3. The sum of three million eight hundred seventy-three thousand pesos is hereby appropriated out of any funds in the National Treasury, not otherwise appro-

This Act shall take effect upon its approval.

d, June 15, 1954.

[REPUBLIC ACT No. 1079]

CT PROVIDING THAT CIVIL SERVICE ELIGIBILITY SHALL BE PERMANENT

nacted by the Senate and House of Representatives the Philippines in Congress assembled:

N 1. Civil service eligibility shall be permanent have no time limit.

2. Any provision of law, rule or regulation which sistent with the provisions of this Act is repealed.

SEC. 3. This Act shall be retroactive so as to include persons whose civil service eligibility had expired prior to its approval.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 931

[REPUBLIC ACT No. 1080]

AN ACT DECLARING THE BAR AND BOARD EXAMINATIONS AS CIVIL SERVICE EXAMINATIONS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The bar examinations and the examinations given by the various boards of examiners of the Government are declared as civil service examinations, and shall, for purposes of appointment to positions in the classified service the duties of which involve knowledge of the respective professions, except positions requiring highly specialized knowledge not covered by the ordinary board examinations, be considered as equivalent to the first grade regular examination given by the Bureau of Civil Service if the profession requires at least four years of study in college and the person has practiced his profession for at least two years, and as equivalent to the second grade regular examination if the profession requires less than four years of college study.

SEC. 2. The Commissioner of Civil Service shall be furnished by the Clerk of the Supreme Court and the Secretary of the Board of Examiners a list of the successful candidates in the respective bar or board examinations with their general averages, and preference shall be given to those obtaining the highest ratings in making appointments: *Provided,* That for those who have already passed the corresponding bar or board examinations, the eligibility shall be deemed to commence from the approval of this Act.

SEC. 3. The Commissioner of Civil Service shall promulgate the rules and regulations to implement the provisions of this Act.

SEC. 4. The benefits granted under this Act shall not prescribe, the provisions of civil service law or regulations notwithstanding.

SEC. 5. This Act shall take effect upon its approval.

Approved June 15, 1954.

H. No. 1016

[REPUBLIC ACT No. 1081]

AN ACT FURTHER AMENDING SECTION TWO
DRED EIGHTY-SIX OF THE ADMINISTRA
CODE, BY PROVIDING THAT THE T
LEAVE THAT CAN ACCUMULATE TO
CREDIT OF A GOVERNMENT OFFICER
PLOYEE SHALL NOT EXCEED TEN MO

Be it enacted by the Senate and House of Represen
of the Philippines in Congress assembled:

SECTION 1. Section two hundred eighty-six of the Administrative Code, as amended by Republic Act Numbered Six hundred eleven, is further amended to read as follows:

"SEC. 286. *When vacation leave and sick leave may be taken.*—Vacation leave and sick leave shall be cumulative and any part thereof which may not be taken within the calendar year in which earned may be carried over to the succeeding years, but whenever any officer, employee, or laborer of the Government of the Philippines shall voluntarily resign or be separated from the service through no fault of his own, he shall be entitled to the commutation of all accumulated vacation and/or sick leave to his credit: *Provided,* That the total vacation leave and sick leave that can accumulate to the credit of any officer or employee shall, in no case, exceed ten months: *Provided, further,* That the proper Department Head may in his discretion authorize the commutation of the salary that would be received during the period of vacation and sick leave of any appointed officer or employee or teacher or laborer of the Philippine Government and direct its payment on or before the beginning of such leave from the fund out of which the salary would have been paid: *Provided, furthermore,* That no person whose leave has been commuted following his separation from the service shall be reappointed or reemployed under the Government of the Philippines before the expiration of the leave commuted unless he first refunds the money value of the unexpired portion of the leave commuted."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

S. No. 31
H. No. 385

[REPUBLIC ACT NO. 1082]

AN ACT STRENGTHENING HEALTH AND DENTAL SERVICES IN THE RURAL AREAS, AND PROVIDING FUNDS THEREFOR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Nomenclature.*—The District Health Officers shall henceforth be called Provincial Health Officers, and the Presidents of Sanitary Divisions, Municipal Maternity and Charity Clinic Physicians and Heads of Units of the Rural Health Units (FOA/PHILCUSA) of the Bureau of Health, shall henceforth be named Municipal Health Officers.

SEC. 2. (*a*) There shall be in each province a Provincial lth Officer, and in each congressional district, a Public n Dentist: *Provided, however,* That a congressional having a population of over one hundred fifty nd shall have an additional Public Health Dentist. isting charity dentists under the Bureau of Hosanced by the Sweepstakes aid and national fund lentists under the Bureau of Health shall con- nucleus for the dental service in the one nd two Congressional Districts: *And, provided,* That the positions of Public Health Dentists shall ted immediately upon the approval of this Act so ach congressional district shall have one dentist.

(*b*) There shall be created rural health units of two classes: one of category one or senior rural health unit consisting of one municipal health officer as head of the unit, one public health nurse, one midwife, and one sanitary inspector; another of category two or junior rural health unit consisting of one physician or public health nurse as head of the unit and one midwife or sanitary inspector. Each municipality or group of municipal districts having a population of not less than five thousand shall have a rural health unit of category one: *Provided, however,* That a municipality with more than thirty-five thousand inhabitants shall have an additional rural health unit of category two. If the public service so demands, the Director of Health, upon approval of the Secretary of the Department of Health, can regroup neighboring barrios and assign to each group a rural health unit of whatever category the circumstances warrant.

(*c*) To take care of the distribution of drugs and medicines for the use in the rural areas, there shall be created four positions of pharmacists to be detailed in the central office of the Bureau of Health. These pharmacists may, from time to time, be assigned to the provinces as conditions warrant.

SEC. 3. The existing Presidents of Sanitary Divisions, Municipal Maternity and Charity Clinic Physicians, and Heads of the Units of the Rural Health Units (FOA/PHILCUSA) of the Bureau of Health shall be the Municipal Health Officers to head the rural health units and shall remain in their present stations as municipal health officers thereat until their places of assignment are fixed by the Secretary of Health upon the recommendation of the Director of Health: *Provided, however,* That the additional rural health units required in section two (*b*) of this Act shall be established in four years from the effectivity of this Act.

SEC. 4. The minimum and maximum rates of annual salaries for the positions created in this Act shall be as follows:

Position	*Salary Range (per annum)*
Municipal Health Officer	₱3,000.00–₱4,200.00
Public Health Dentist	2,400.00– 3,120.00
Public Health Nurse	2,400.00– 2,580.00
Midwife	1,440.00– 1,800.00
Provincial Sanitary Inspector	1,440.00– 1,560.00
Pharmacist	2,400.00– 3,120.00

Provided, however, That the Public Health Nurses in this Act shall have no cash allowance granted public health nurses in lieu of quarters, subsistence, and laundry in accordance with the provisions of Republic Act Nu Six hundred forty-nine. The salaries of Provincial Officers shall be that fixed in Republic Act Numb hundred seventy-five for District Health Officers

SEC. 5. The duties of the Provincial Health Of be the same as those enumerated in section eighty of the Revised Administrative C Health Officers, while the duties of the Officers shall be the same as those enume one thousand six of the said Code for Preside

Divisions in addition to those provided for in Commonwealth Act Numbered Seven hundred four, as amended by Republic Act Numbered One hundred eighty-five, for Maternity and Charity Clinic Physicians.

SEC. 6. The Secretary of Health, upon the recommendation of the Director of Health, shall promulgate rules and regulations governing the duties, functions, and distribution of the public health nurses, midwives, sanitary inspectors, and public health dentists with a view to intensify the public health services and public sanitation work in the rural areas.

SEC. 7. In the event that the Health Fund created under section one thousand twelve of the Revised Administrative Code is not sufficient to cover the salaries of the personnel created under this Act who are paid regularly from said fund, the balance shall be taken from the fund hereinafter provided.

SEC. 8. To carry out the purposes of this Act the sum of four million pesos or so much thereof as may be necessary is hereby appropriated out of any fund in the National Treasury not otherwise appropriated: *Provided*, That the amount of not less than seven hundred thousand pesos shall be for the purchase of medical and dental supplies for the use in the rural areas, and the sum of three hundred thousand pesos for the purchase of medical and dental equipment and instruments. The amount of four million pesos herein appropriated is for the fiscal year nineteen hundred and fifty-four to nineteen hundred and fifty-five: *And provided, further*, That one million pesos shall be appropriated thereafter in addition to the total appropriation of the preceding year for the establishment of additional rural health units each year to complete the one thousand three hundred rural health units envisioned in this program; and additional Public Health Dentists to complete the goal of one hundred sixty-two Public Health Dentists.

SEC. 9. The Office of the Section of Municipal Maternity and Charity Clinics of the Bureau of Hospitals, its personnel, equipment, supplies, records, and appropriation shall, upon the approval and operation of this Act, be transferred to the Bureau of Health.

SEC. 10. All laws, administrative orders, executive orders, and regulations, or parts thereof inconsistent with any of the provisions of this Act are hereby repealed.

SEC. 11. This Act shall take effect upon its approval.

Approved, June 15, 1954.

No. 50

[REPUBLIC ACT No. 1083]

T TO AMEND ARTICLE ONE HUNDRED AND NTY-FIVE OF ACT NUMBERED THIRTY T HUNDRED AND FIFTEEN, OTHERWISE AS THE REVISED PENAL CODE, AS BY EXTENDING THE PERIOD OF ENTION IN CERTAIN CASES.

the Senate and House of Representatives ippines in Congress assembled:

SECTION 1. Article One hundred and twenty-five of Act Numbered Thirty eight hundred and fifteen, otherwise known as the Revised Penal Code, as amended, is hereby further amended to read as follows:

"ART. 125. *Delay in the delivery of detained persons to the proper judicial authorities.*—The penalties provided in the next preceding article shall be imposed upon the public officer or employee who shall detain any person for some legal ground and shall fail to deliver such person to the proper judicial authorities within the period of: six hours, for crimes or offenses punishable by light penalties, or their equivalent; nine hours, for crimes or offenses punishable by correctional penalties, or their equivalent; and eighteen hours, for crimes or offenses punishable by afflictive or capital penalties, or their equivalent.

"In every case, the person detained shall be informed of the cause of his detention and shall be allowed, upon his request, to communicate and confer at any time with his attorney or counsel."

SEC. 2. All acts, executive orders, proclamations, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 15, 1954.

S. No. 110

[REPUBLIC ACT No. 1084]

AN ACT TO AMEND SECTION TWO HUNDRED AND SIXTY-SEVEN OF THE REVISED PENAL CODE. (Re kidnapping and serious illegal detention.)

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section two hundred and sixty-seven of the Revised Penal Code, as amended by section two of Republic Act Numbered Eighteen, is hereby further amended to read as follows:

"SEC. 267. *Kidnapping and serious illegal detention.*—Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusión perpétua* to death:

"1. If the kidnapping or detention shall have lasted more than five days.

"2. If it shall have been committed simulating public authority.

"3. If any serious physical injuries shall have been in[flicted] upon the person kidnapped or detained; o[r] threats to kill him shall have been made.

"4. If the person kidnapped or detained sha[ll be a] minor, female or a public officer.

"The penalty shall be death where the kidn[apping or] detention was committed for the purpose of extor[tion] som from the victim or any other person, even [though] the circumstances above mentioned were p[resent in the] commission of the offense."

SEC. 2. This Act shall take effect upon it[s approval.]

Approved, June 15, 1954.

H. No. 208

[REPUBLIC ACT NO. 1085]

AN ACT AUTHORIZING THE REHABILITATION FINANCE CORPORATION AND THE PHILIPPINE NATIONAL BANK TO GRANT LOANS TO HOMESTEADERS UNDER CERTAIN CONDITIONS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Any provision of law or regulation to the contrary notwithstanding, the Rehabilitation Finance Corporation and the Philippine National Bank are authorized to grant loans to be used or applied in the improvement of his homestead to any bona fide homesteader without collateral which shall not exceed one thousand pesos, payable in ten years with interest at the rate of four *per centum* without notarial or legal charges whatsoever: *Provided,* That his application for homestead has already been approved: *Provided, further,* That he has made improvements on his homestead within two years from the date of the approval of his application for homestead: *And provided, lastly,* That as soon as the patent is issued said patent should be turned over to the lending institution in order that the loan may be annotated at the back of said certificate.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 996

[REPUBLIC ACT NO. 1086]

AN ACT PROVIDING FOR A MORE RIGID ENFORCEMENT OF THE PROHIBITION AGAINST THE KILLING OF THE *BUBALUS MINDORENSIS,* COMMONLY KNOWN AS TAMARAW, BY AMENDING COMMONWEALTH ACT NUMBERED SEVENTY-THREE, ENTITLED "AN ACT PROHIBITING THE KILLING, HUNTING, WOUNDING OR TAKING AWAY OF *BUBALUS MINDORENSIS,* COMMONLY KNOWN AS TAMARAW."

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section two of Commonwealth Act Numbered [illegible]enty-three is amended to read as follows:

[illegible]EC. 2. Any person violating this Act shall be punished [illegible]h offense by imprisonment of not less than three [illegible]e than six months or by a fine of not less than [illegible]red nor more than one thousand pesos, or by both [illegible]risonment and fine, in the discretion of the court."

[illegible]This Act shall take effect upon its approval.

[illegible], June 15, 1954.

H. No. 1018

[REPUBLIC ACT No. 1087]

AN ACT TO CONVERT THE CAGAYAN TRADE SCHOOL IN THE PROVINCE OF CAGAYAN TO A NATIONAL SCHOOL OF ARTS AND TRADES OF THE PHILIPPINE SCHOOL OF ARTS AND TRADES TYPE, TO BE KNOWN AS THE CAGAYAN VALLEY SCHOOL OF ARTS AND TRADES, AND TO AUTHORIZE THE APPROPRIATION OF FUNDS FOR THE PURPOSE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The Cagayan Trade School, situated in the municipality of Tuguegarao, Province of Cagayan, is hereby converted to a national school of arts and trades of the Philippine School of Arts and Trades type, to be known as the Cagayan Valley School of Arts and Trades.

SEC. 2. The sum of two hundred thousand pesos is authorized to be appropriated, out of any funds in the National Treasury not otherwise appropriated, for the operation and maintenance of the Cagayan Valley School of Arts and Trades during the school year nineteen hundred fifty-four to nineteen hundred fifty-five. Thereafter, the necessary sum for said purpose shall be included in the annual General Appropriation Act.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1076

[REPUBLIC ACT No. 1088]

AN ACT TO AMEND SECTION ELEVEN OF ACT NUMBERED FOUR THOUSAND AND THREE, OTHERWISE KNOWN AS THE FISHERIES ACT.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section eleven of Act Numbered Four thousand and three, otherwise known as the Fisheries Act is hereby amended to read as follows:

"SEC. 11. *Prohibition of the use of obnoxious or poisonous substances in fishing.*—The use of any obnoxious or poisonous substance liable to stupefy, disable, or cause death of fishes or other aquatic animals for the taking o same; or the placing of any such substance in fresh wate or marine water of the Philippines where it may caus the stupefaction, disablement, or death of fishes an is intended to cause such stupefaction, disablement, or death; or the gathering by any means of the fishes or other aquatic animals stupefied, disabled or killed by the of poisonous or obnoxious substance shall be unlawful discovery of obnoxious or poisonous substance in a son, fishing boat, banca, raft, or any other w shall constitute a *prima facie* presumption ag person, owner, possessor or in charge of the bo

other watercraft that the said obnoxious or poisonous substance is being used for fishing purposes in violation of this section, and that the discovery in any fishing boat of fish caught or killed by the use of poisonous or obnoxious substance shall constitute a *prima facie* presumption that the person, owner, possessor or in charge of the fishing boat or any other watercraft or the fishing crew have been fishing with poisonous or obnoxious substance: *Provided, however,* That the Secretary of Agriculture and Natural Resources may issue permits for the use of poisonous or obnoxious substances in taking fish or other aquatic animals in limited numbers for scientific purposes only. Such authorized party must have the permit with him ready to exhibit on demand by any peace officer or deputy authorized in section five hereof to enforce the provisions of this Act."

SEC. 2. A fishing boat, for the purpose of this Act, includes all boats as bancas, sailboats, motor boats or any other type of watercraft whether licensed or not for the purpose: *Provided,* That any of such boats referred to herein used for the purpose of transporting the fish from the fishing grounds to the market are fishing boats.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1214

[REPUBLIC ACT No. 1089]

AN ACT TO CONVERT THE PRESENT CAMARINES SUR AGRICULTURAL SCHOOL INTO THE CAMARINES SUR REGIONAL AGRICULTURAL SCHOOL OF THE BAYBAY NATIONAL AGRICULTURAL SCHOOL TYPE, AND TO AUTHORIZE THE APPROPRIATION OF FUNDS FOR THE PURPOSE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The present Camarines Sur Agricultural School, located in the municipality of Pili, Province of Camarines Sur, is hereby converted into the Camarines Sur Regional Agricultural School of the Baybay National Agricultural School type.

SEC. 2. The Secretary of Education is authorized to reorganize the school in accordance with this provision.

SEC. 3. To carry out the intents and purposes of this Act, the sum of two hundred thousand pesos is hereby authorized to be appropriated out of any funds in the National Treasury not otherwise appropriated, for the establishment, operation and maintenance of the said school for the fiscal year nineteen hundred fifty-four to nineteen hundred fifty-five. Thereafter, the necessary sum for said purpose shall be included in the annual General Appropriation Act.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1298

[REPUBLIC ACT No. 1090]

AN ACT TO EXTEND THE EFFECTIVITY OF REPUBLIC ACT NUMBERED FIVE HUNDRED AND EIGHTY-NINE, BY FURTHER AMENDING SECTION SEVEN THEREOF, ENTITLED "AN ACT TO AMEND SECTIONS ONE HUNDRED AND THIRTY-THREE, ONE HUNDRED AND THIRTY-FOUR, ONE HUNDRED AND THIRTY-FIVE, ONE HUNDRED AND THIRTY-SEVEN, ONE HUNDRED AND FORTY, AND ONE HUNDRED AND FORTY-SEVEN OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED AND SIXTY-SIX, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED."

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section seven of Republic Act Numbered Five hundred and eighty-nine, as amended by Republic Act Numbered Seven hundred and twenty-four, and Republic Act Numbered Nine hundred and fifty-five, is further amended to read as follows:

"SEC. 7. This Act shall take effect upon its approval, but, unless otherwise expressly extended by Congress, the increased rates of tax provided for in this Act shall continue in force and effect until December thirty-one, nineteen hundred and fifty-five."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1299

[REPUBLIC ACT No. 1091]

AN ACT TO EXTEND THE EFFECTIVITY OF REPUBLIC ACT NUMBERED FIVE HUNDRED AND EIGHTY-EIGHT, BY FURTHER AMENDING SECTION EIGHT THEREOF, ENTITLED "AN ACT TO AMEND CERTAIN SECTIONS OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED AND SIXTY-SIX, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE," AS AMENDED.

Be it enacted by the Senate and House of Represent of the Philippines in Congress assembled:

SECTION 1. Section eight of Republic Act Num Five hundred and eighty-eight, as amended by Rep Act Numbered Seven hundred and twenty-six and Rep Act Numbered Nine hundred and fifty-eight, is furt amended to read as follows:

"SEC. 8. This Act shall take effect upon its app but, unless otherwise expressly extended by Congre increased taxes provided for in this Act shall c in force and effect only until December thirty-o

teen hundred and fifty-five, after which period the original rates of tax shall again be in force."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1300

[REPUBLIC ACT No. 1092]

AN ACT TO EXTEND THE EFFECTIVITY OF REPUBLIC ACT NUMBERED FIVE HUNDRED AND SIXTY-SEVEN, BY FURTHER AMENDING SECTION SEVEN THEREOF, ENTITLED "AN ACT TO AMEND TITLE SIX OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED AND SIXTY-SIX, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED."

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section seven of Republic Act Numbered Five hundred and sixty-seven, as amended by Republic Act Numbered Seven hundred and twenty-five, and Republic Act Numbered Eight hundred and seventy, is further amended to read as follows:

"SEC. 7. This Act shall take effect upon its approval, but, unless otherwise expressly extended by Congress, the increased taxes provided for in this Act shall continue in force and effect until December thirty-one, nineteen hundred and fifty-five."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1349

[REPUBLIC ACT No. 1093]

AN ACT TO PUNISH TAX EVASION AND WILFUL REFUSAL TO PAY TAXES BY ALIENS WITH DEPORTATION.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Any alien who shall knowingly and fraudu-
tly evade the payment of any internal revenue tax or
ully refuses to pay such tax and the accessory penalties
eof after the decision on his tax liability, rendered by
Collector of Internal Revenue or the Board of Tax
als or any competent administrative agency or judicial
inal, now existing or which may hereafter be created
aw, shall have become final and executory, shall be
ble to deportation. If such tax evasion or wilful refusal
pay is committed by a corporation, association, or part-
hip, the officers thereof, who are aliens who directly
cipate in the commission of the fraudulent tax evasion
o wilfully refuse the collection of such tax after
therefor has become final and executory, shall be
deportation. The imposition of the penalty of
tion herein provided shall not be a bar to any
ding, administrative or judicial, which may be taken

by the Government to enforce the collection of the tax delinquency.

SEC. 2. The Collector of Internal Revenue shall submit on or before January thirty-one every year to the Solicitor General and to the Deportation Board a list of tax cases involving aliens with a statement regarding their status. He shall also submit to the Solicitor General and to the Deportation Board a copy of the final decisions rendered in such cases, whether by compromise or otherwise, within fifteen days after they become final. The documents herein required to be submitted by the Collector of Internal Revenue shall be open to public inspection.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 1784

[REPUBLIC ACT NO. 1094]

AN ACT TO AMEND SECTION TWENTY-ONE OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED SIXTY-SIX, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section twenty-one of the National Internal Revenue Code, as amended, is further amended to read as follows:

"SEC. 21. *Rates of tax on citizens or residents.*—There shall be levied, assessed, collected, and paid annually upon the entire net income received in the preceding taxable year from all sources by every individual, a citizen or resident of the Philippines, a tax equal to the sum of the following:

"Five *per centum per annum* upon the amount by which such total net income does not exceed two thousand pesos;

"Eight *per centum per annum* upon the amount by which such total net income exceeds two thousand pesos and does not exceed four thousand pesos;

"Twelve *per centum per annum* upon the amount by which such total net income exceeds four thousand pesos a[nd] does not exceed six thousand pesos;

"Sixteen *per centum per annum* upon the amou[nt] which such total net income exceeds six thousand [pesos] and does not exceed eight thousand pesos;

"Twenty *per centum per annum* upon the amoun[t] which such total net income exceeds eight thousand pe[sos] and does not exceed ten thousand pesos;

"Twenty-four *per centum per annum* upon the amou[nt] by which such total net income exceeds ten thousand pesos and does not exceed twenty thousand pesos;

"Thirty *per centum per annum* upon the amou[nt] which such total net income exceeds twenty thousan[d pesos] and does not exceed thirty thousand pesos;

"Thirty-six *per centum per annum* upon the a[mount] which such total net income exceeds thirty thousa[nd pesos] and does not exceed forty thousand pesos;

"Forty *per centum per annum* upon the amount by which such total net income exceeds forty thousand pesos and does not exceed fifty thousand pesos;

"Forty-two *per centum per annum* upon the amount by which such total net income exceeds fifty thousand pesos and does not exceed sixty thousand pesos;

"Forty-four *per centum per annum* upon the amount by which such total net income exceeds sixty thousand pesos and does not exceed seventy thousand pesos;

"Forty-six *per centum per annum* upon the amount by which such total net income exceeds seventy thousand pesos and does not exceed eighty thousand pesos;

"Forty-eight *per centum per annum* upon the amount by which such total net income exceeds eighty thousand pesos and does not exceed ninety thousand pesos;

"Fifty *per centum per annum* upon the amount by which such total net income exceeds ninety thousand pesos and does not exceed one hundred thousand pesos;

"Fifty-two *per centum per annum* upon the amount by which such total net income exceeds one hundred thousand pesos and does not exceed one hundred and twenty thousand pesos;

"Fifty-three *per centum per annum* upon the amount by which such total net income exceeds one hundred and twenty thousand pesos and does not exceed one hundred and forty thousand pesos;

"Fifty-four *per centum per annum* upon the amount by which such total net income exceeds one hundred and forty thousand pesos and does not exceed one hundred and sixty thousand pesos;

"Fifty-five *per centum per annum* upon the amount by which such total net income exceeds one hundred and sixty thousand pesos and does not exceed two hundred thousand pesos;

"Fifty-six *per centum per annum* upon the amount by which such total net income exceeds two hundred thousand pesos and does not exceed two hundred and fifty thousand pesos;

"Fifty-seven *per centum per annum* upon the amount by which such total net income exceeds two hundred and fifty thousand pesos and does not exceed three hundred thousand pesos;

"Fifty-eight *per centum per annum* upon the amount by which such total net income exceeds three hundred thousand pesos and does not exceed four hundred thousand

ty-nine *per centum per annum* upon the amount by such total net income exceeds four hundred thousand pesos and does not exceed five hundred thousand os; and

"Sixty *per centum per annum* upon the amount by which such total net income exceeds five hundred thousand pesos."

SEC. 2. This Act shall take effect upon its approval: *ided, however,* That the rates hereinabove fixed shall o income received from January first, nineteen hundred fifty-four, to December thirty-first, nineteen hundred fifty-five.

ved, June 15, 1954.

H. No. 1972

[REPUBLIC ACT No. 1095]

AN ACT TO AMEND SECTION TWO THOUSAND AND SEVENTY-ONE OF THE REVISED ADMINISTRATIVE CODE, AS AMENDED.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section two thousand and seventy-one of the Revised Administrative Code, as amended by section one of Commonwealth Act Numbered Two hundred and thirty-three, is hereby further amended to read as follows:

"SEC. 2071. *Qualifications of provincial officer.*—No person shall be eligible to a provincial office unless at the time of the election he is a qualified voter of the province, has been a *bona fide* resident therein for at least one year prior to the election, and is not less than twenty-five years of age."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2028

[REPUBLIC ACT No. 1096]

AN ACT FURTHER AMENDING SECTION FIFTY-EIGHT OF ACT NUMBERED FOUR HUNDRED NINETY-SIX, KNOWN AS THE "LAND REGISTRATION ACT," TO FACILITATE DEALINGS IN LANDS SOLD BY THE GOVERNMENT PENDING APPROVAL OF THE SUBDIVISION SURVEYS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section fifty-eight of Act Numbered Four hundred ninety-six, known as the Land Registration Act, is hereby further amended by adding at the end thereof the following additional paragraph:

"For the purpose of securing loans from banking and credit institutions, the foregoing prohibition against the acceptance for registration or annotation of a subsequent deed or other voluntary instrument shall not apply in the case of deeds of sale duly executed by the Government, or any of its instrumentalities, with respect to portions of lands registered in the name of the Republic of the Philippines."

SEC. 2. All laws and regulations, or parts thereof inco[n]sistent with the provisions of this Act, are hereby repea[led].

SEC. 3. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2128

[REPUBLIC ACT No. 1097]

AN ACT TO AMEND CERTAIN SECTIONS OF R[EPUB]LIC ACT NUMBERED SEVEN HU[NDRED] TWENTY, OTHERWISE KNOWN AS THE [PHILIPPINE] BANKS ACT.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section four of Republic Act Numbered Seven hundred twenty, otherwise known as the Rural Banks Act, is hereby amended to read as follows:

"SEC. 4. No Rural Bank shall be operated without a Certificate of Authority of the Monetary Board of the Central Bank. Rural Banks shall be organized in the form of stock corporations. Duly established cooperatives may organize Rural Banks and/or subscribe to the shares of stock of any Rural Bank. At least sixty per cent of the capital stock of any Rural Bank shall be owned and held by citizens of the Philippines: *Provided, however,* That if said subscription of private shareholders to the capital stock of a Rural Bank cannot be secured or is not available, the Rehabilitation Finance Corporation, on representation of the said private shareholders and upon approval of the Monetary Board of the Central Bank, shall subscribe to the capital stock of such rural bank, which shall be paid in full at the time of subscription, in an amount equal to the fully paid subscribed capital of the private shareholders: *Provided, further,* That such shares of stock subscribed by the Rehabilitation Finance Corporation may be sold at any time at par to private individuals who are citizens of the Philippines: *Provided, finally,* That in the sale of the shares of stock subscribed by the Rehabilitation Finance Corporation, the registered stockholders shall have the right of preemption within five years from the date of offer in proportion to their respective holdings, but in the absence of such buyer, preference, however, shall be given to residents of the locality or province where the Rural Bank is located. All members of the Board of Directors of the Rural Banks shall be citizens of the Philippines."

SEC. 2. Section seven of the same Act is amended to read as follows:

"SEC. 7. To provide supplemental capital to any Rural Bank until it has accumulated enough capital of its own or stimulate private investments in Rural Banks, the Rehabilitation Finance Corporation shall, upon certification of the Monetary Board which shall be final, of the existence of such need, subscribe within thirty days to capital stock of any Rural Bank from time to time in an amount equal to but not exceeding the total equity investment of the private shareholders: *Provided, however,* That shares of stock issued to the Rehabilitation Finance Corporation, pursuant to this section, may at any time be paid off at par and retired in whole or in part if, in the opinion of the Monetary Board, the Rural Bank has accumulated enough capital strength to permit retirement of such shares; or if an offer is received from private sources, to replace the equity investments of the Rehabilitation Finance Corporation with an equivalent investment or more in the common stock of such Bank. In case of such retirement of stock or replacement of equity investments of the Rehabilitation Finance Corporation, the registered private shareholders of the Rural Bank shall have the right of preemption within five years

from date of offer in proportion to their respective holdings.

"Stock held by the Rehabilitation Finance Corporation, under the terms of this section, shall be made preferred only as to assets upon liquidation and without the power to vote and shall share in dividend distributions not exceeding two per cent thereof without preference: *Provided, however,* That if such stock of the Rehabilitation Finance Corporation is sold to private shareholders, the same shall be converted into common stock of the class provided for in section nine."

SEC. 3. Section twelve of the same Act is amended to read as follows:

"SEC. 12. The Rehabilitation Finance Corporation shall, within sixty days of certification of the Monetary Board, which shall be final, extend to a Rural Bank a loan or loans from time to time repayable in ten years, with interest at the rate of two per cent *per annum,* against security which may be offered by any stockholder or stockholders of the Rural Bank: *Provided*—

"(*a*) That the Monetary Board is convinced that the resources of the Rural Bank are inadequate to meet the legitimate credit requirements of the locality wherein the Rural Bank is established;

"(*b*) That there is a dearth of private capital in the said locality; and

"(*c*) That it is not possible for the stockholders of the Rural Bank to increase the paid-up capital thereof."

SEC. 4. Section fourteen of the same Act is amended to read as follows:

"SEC. 14. All Rural Banks created and organized under the provisions of this Act, with net assets not exceeding seven hundred thousand pesos, shall be exempt from the payment of all taxes, charges and fees of whatever nature and description."

SEC. 5. Section sixteen of the same Act is amended to read as follows:

"SEC. 16. Any justice of the peace, in his capacity as notary *ex officio,* shall administer the oath to or acknowledge the instruments of any Rural Bank and its borrowers or mortgagors, free from all charges, fees and documentary stamp tax, collectible under existing laws, relative to any loan or transaction not exceeding two thousand pesos."

SEC. 6. Section seventeen of the same Act is amended to read as follows:

"SEC. 17. Any register of deeds shall accept from any Rural Bank and its borrowers or mortgagors for registration, free from all charges, fees, and documentary stamp tax, collectible under existing laws, any instrument, whether voluntary or involuntary, relating to loans or transactions extended by a Rural Bank in an amount [illegible] exceeding two thousand pesos: *Provided, however,* [illegible] charges if any shall only be collectible on the [illegible] excess of two thousand pesos; and that [illegible] related to assignments of several mortgag[illegible] in a single deed, charges or fees, if any, [illegible] only on the amount in excess of two thous[illegible] the consideration in the assignment of each [illegible]

SEC. 7. Section twenty-three of the same Act is amended to read as follows:

"SEC. 23. Any justice of the peace or register of deeds who shall demand or accept, directly or indirectly, any gift, fee, commission or other form of compensation in connection with the service or shall arbitrarily or without reasonable cause delay the acknowledgment or administration of oath or the registration of documents required to be performed by said justice of the peace as provided in section sixteen and by said register of deeds as provided in section seventeen of this Act, shall be punished by a fine of not more than one thousand pesos or by imprisonment for not more than one year, or both, at the discretion of the court."

SEC. 8. Section twenty-five of the same Act is amended to read as follows:

"SEC. 25. The Monetary Board of the Central Bank shall submit a report to the Congress as of the end of each calendar year of all the rules and regulations promulgated by it in accordance with the provisions of this Act, as well as its other actuations in connection with Rural Banks, together with an explanation of its reasons therefor."

SEC. 9. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 2153

[REPUBLIC ACT NO. 1098]

AN ACT APPROPRIATING THE SUM OF ONE MILLION PESOS AS WORKING CAPITAL OF THE PRISON INDUSTRIES AND SALVAGE WAREHOUSE REVOLVING FUND, AND PROVIDING FOR ITS ANNUAL AMORTIZATION WITHIN THE PERIOD OF TEN YEARS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of one million pesos is hereby appropriated out of any funds in the National Treasury not otherwise appropriated as working capital of the Prison Industries and Salvage Warehouse Revolving Fund. Any cash overdraft of the said Revolving Fund which may be found existing and certified to as correct by the Auditor General upon approval of this Act, shall be considered as advanced from the general fund.

SEC. 2. The working capital herein provided for may be released by the Auditor General to the Bureau of Prisons in one lump sum upon certification of the Commissioner of the Budget as to the necessity thereof.

SEC. 3. The working capital herein appropriated as as the cash overdraft shall be repaid to the National by the Prison Industries and Salvage Warehouse d during a period of ten years beginning year 1955–1956 on the annual amortization

s Act shall take effect upon its approval.

June 15, 1954.

H. No. 93

[REPUBLIC ACT No. 1099]

AN ACT AUTHORIZING THE MUNICIPALITY OF ROMBLON IN THE PROVINCE OF ROMBLON TO RECLAIM A PORTION OF ITS FORESHORE BORDERING ROMBLON BAY AND VESTING TITLE THERETO IN THE SAID MUNICIPALITY.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The municipality of Romblon in the Province of Romblon is hereby authorized to reclaim a portion not exceeding five hectares of its foreshore bordering Romblon Bay. After reclamation, title to the area reclaimed shall vest in the said municipality and, thereafter, the said municipality shall subdivide said reclaimed area into lots or blocks of suitable size for the purpose of constructing public improvements thereon, and the lots or blocks not needed for public purposes may be leased by it for commercial or industrial purposes or for the purpose of providing homesites for its inhabitants: *Provided,* That the new foreshore along the reclaimed lands shall continue to be property of the National Government.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

H. No. 201

[REPUBLIC ACT No. 1100]

AN ACT TO CONVERT THE SITIO OF HINANGAYON, MOGPOG, MARINDUQUE, INTO A BARRIO TO BE KNOWN AS THE BARRIO OF HINANGAYON.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Hinangayon, barrio of Argao, municipality of Mogpog, Province of Marinduque, is hereby converted into a barrio to be known as the barrio of Hinangayon.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 15, 1954.

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

Executive Office

PROVINCIAL CIRCULAR
(Unnumbered)

June 8, 1954

COMMUNICATIONS TO EMBRACE ONE SUBJECT ONLY

To all Provincial Governors, Provincial Boards, City Mayors, and Municipal Boards and City Councils:

It has been observed lately that very often local government offices and officials fail to observe standing instructions requiring that communications be prepared so as to treat of only one subject, and this has been causing no little amount of difficulty, inconvenience and delay in the disposition of correspondence embracing different, often times multifarious or varied, matters which require consideration by two or more offices or officials. In order to avoid unnecessary difficulty, inconvenience and delay in the dispatch of official papers, all local government officials are hereby enjoined to observe strictly hereafter the following provisions of section 3 of [illegible] Compilation of Provincial Circulars of the [illegible] Executive Bureau:

"[illegible] *Letters to embrace one subject only.*— attention of all officials is called to the portance of treating of but one subject only in any communication, except in a report covering a definite period. It is difficult to file papers tre[illegible] of more than one subject; and [illegible]ge is that such papers fre[illegible]deration by more than one [illegible]onvenience, confusion, and

[illegible]d city moyors will please [illegible]eof to all officials con[illegible]ive provinces and cities.

[illegible]RED RUIZ CASTRO
Executive Secretary

[illegible]*ne 15, 1954*

[illegible]TO COME TO [illegible]ESIDENT

[illegible]*Mayors:*

[illegible]city, and [illegible]elegations come to Manila for the purpose of bringing to the President personally their problems and needs. In many instances, these local officials have to stay in Manila unnecessarily for several days, sometimes weeks, before they can have an audience, because the President is usually busy with out-of-town engagements that he stays in Malacañang at short intervals. In such cases said officials would be spending the money of the government unnecessarily which it can ill afford. For this reason, it is desirable in the interest of public service that local officials desiring to see the President should first submit their problems by letter. For matters which personal representations to the President are absolutely necessary, a request for audience should first be made stating the reason why and if found necessary the official will be called to Manila by telegram. In the meantime the official concerned should wait for reply after an appointment has been arranged with the President.

In this connection, it may be stated that local officials should endeavor to take up their problems with the Departments concerned which will give such problems immediate attention.

It is requested that this matter be brought to the attention of all concerned for their information, guidance and compliance.

FRED RUIZ CASTRO
Executive Secretary

PROVINCIAL CIRCULAR
(Unnumbered)

June 16, 1954

ANNUAL FAIR FOR PHILIPPINE-MADE AND PHILIPPINE-GROWN PRODUCTS

To all Provincial Governors and City Mayors:

In the Second National Convention of Manufacturers and Producers held in Manila on March 19 and 20, 1954, the following resolution was adopted:

> "Resolution urging the national government and the provincial governments to sponsor provincial fairs annually and regularly for the purpose of exhibiting Philippine-made products and Philippine-grown products with the end in view of showing to our people the extent of our local manufacturing organizations particularly of Philippine-made products."

In this connection, attention is invited to the following statements made by the Director of Commerce in his second indorsement of May 20, 1954, on the matter, concurred in by the Secretary of

Commerce and Industry, and last paragraph of the third indorsement, dated June 1, 1954, of the Secretary of Agriculture and Natural Resources:

"The holding of provincial fairs and expositions is highly desirable because these affairs, among others, are recognized media for the advancement of trade, in bringing into close contact the products of Philippine industries to prospective customers and in opening more avenues for the exchange of merchandizing and technological ideas. It is, however, very difficult, if not impossible, for the Bureau of Commerce, in representation of the national government, to sponsor provincial fairs and expositions annually and regularly in the provinces owing to the absence of appropriation for the purpose. Under its present financial difficulties what this Bureau is doing is to manage and operate provincial trading centers which exhibit and sell exclusively Philippine-made products or encourage Filipinos or associations or corporations whose members are Filipino citizens to manage and operate provincial trading centers in provincial capitals and chartered cities of the Philippines. * * *.

BONIFACIO A. QUIAOIT
Director of Commerce

* * *

"This Office realizes the importance of holding provincial fairs every year in the promotion of agriculture and cottage industries and therefore its promotion must be encouraged. Provincial agricultural and industrial fairs will afford the people, particularly the farmers and manufacturers, not only the opportunity to see and to know the present advances attained in the promotion of agriculture and cottage industries but also the opportunity to know the different economic fields which may be further developed and promoted and therefore will serve as an eye opener to possible investment of capital.

SALVADOR ARANETA
Secretary of Agriculture and Natural Resources

As the fair will tend to bring about the promotion and development of local industries and products, this Office offers no objection to the holding of such fair annually in each province and city, funds permitting. It is suggested, however, that if such fair is held, the same should coincide with the celebration of a town fiesta or any other event in the province or city which is usually attended by people from other places.

FRED RUIZ CASTRO
Executive Secretary

PROVINCIAL CIRCULAR
(Unnumbered)

June 26, 1954

PILGRIMAGE DUES PRESCRIBED BY THE ARABIAN GOVERNMENT

To all Provincial Governors and City Mayors:

There is quoted hereunder the following letter received in this Office from the Department of Foreign Affairs, dated June 17, 1954, relative to the various pilgrimage dues for the current year as prescribed by the Arabian Government:

"I have the honor to quote hereunder the text of a radiogram dated June 12, 1954 received by the Department from the Philippine Legation in Karachi enumerating the various pilgrimage dues for the current year as prescribed by the Arabian Government:

'SECFORAF
MANILA

78 REFERRING PILGRIMAGE DUES CURRENT YEAR ARABIAN GOVERNMENT ADVISES FOLLOWING TARIFF: QUARANTINE PILGRIM CAMP PIER TRANSPORT DOLLARS SEVENTEEN SIXTYFOUR 17.64, MUTAWIFS DOLLARS TWENTYONE FIFTEEN 21.15, HOUSING DOLLARS FIFTY-SEVEN FIFTEEN 57.15, BUS FARES ROUND TRIP JEDDAH MINA DOLLARS SIXTEEN FORTYTHREE 16.43 JEDDAH MEDINA DOLLARS TWENTYFIVE SEVENTY TWO 25.72

MINI

"It would be appreciated if this i on on pilgrimage dues could be circulari provincial and municipal authorities in nao and Sulu for the guidance of all conc

It is requested that the contents thereof be g the widest publicity possible for the inform and guidance of all c ed.

PROVINCIAL
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office from local government offices and officials are not accompanied by sufficient number of carbon copies from which to get our record of each of the papers submitted. It should be borne in mind that oftentimes the primary or root cause of the delay in the release of such papers, to the detriment of the service, is traceable to this omission by our local officials of submitting sufficient copies of each and every sheet in a set of papers, specially in cases involving voluminous papers, such as municipal boundary disputes, organization of new municipalities, loans, etc. In order, therefore, to avoid unnecessary delay in the disposition of matters submitted for consideration by national authorities and thereby promote efficiency and economy in the conduct of official business and to ease congestion of papers not only in this office but also in other national offices, all concerned are hereby requested to see to it that hereafter all communications, including their enclosures and other papers allied thereto, submitted to the national authorities for consideration, are accompanied by as many carbon copies of each and every paper forming part of the sets as there are offices through which the same are to be coursed, plus an extra set for the record files of the office which has to take final dispositive action on the matter involved. Needless to state, this will not only avoid the necessity of each bureau or office making a copy of the correspondence for its files, which is sheer waste of time, but will also expedite the release and transmittal thereof from the office to another.

Provincial governors and city mayors will please trans[illegible] contents hereof to all concerned in the [illegible]ve jurisdictions.

FRED RUIZ CASTRO
Executive Secretary

PROVINCIAL CIRCULAR
(Unnumbered)

July 14, 1954

[illegible]ONAL EDUCATIONAL
[illegible] SEPTEMBER 30,
[illegible]BERCULOSIS SO-

[illegible]ors and City Mayors:*

[illegible] the Philippine Tuberculosis
[illegible]ized to conduct a National
[illegible]e during the period from
[illegible]54, in Proclamation
[illegible]d as follows:

[illegible] Tuberculosis So-
[illegible]an essential public
[illegible] cooperating, in-
[illegible]a Government
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in the crusade against this scourge in the Philippines;

"WHEREAS, it is necessary that this humanitarian work being undertaken by the Society be pursued more vigorously and without disruption so that the rate of mortality and incidence of tuberculosis may be kept gradually down to the minimum attainable and the health of the nation may thereby be preserved; and

"WHEREAS, tuberculosis being a socio-economic ill of incalculable deleterious effects upon our manpower and national economy, the Society deserves continued public support, moral as well as material, to enable it to carry on its noble mission of service;

"NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the authority vested in me by law, do hereby authorize the Philippine Tuberculosis *Society* to conduct a national fund and educational drive during the period from August 19 to September 30, 1954. I call upon all citizens and residents of the Philippines, irrespective of nationality or creed, to assist in this humanitarian campaign by giving generously of their means so that we may keep this dreadful disease under control. I authorize all the treasurers of provincial, city and municipal governments as well as school officials to accept, for the Philippine Tuberculosis Society, voluntary contributions and donations and to issue official receipts therefor."

In this National Fund and Educational Drive, every local official is expected to lend his wholehearted support and cooperation to enable the Philippine Tuberculosis Society to carry on its humanitarian work with greater success.

Provincial Governors are requested to transmit the contents hereof to all municipal and municipal district mayors under their jurisdiction.

FRED RUIZ CASTRO
Executive Secretary

PROVINCIAL CIRCULAR
(Unnumbered)

July 19, 1954

SIGHT-SAVING WEEK—FIRST WEEK OF AUGUST OF EVERY WEEK

To all Provincial Governors and City Mayors:

For your information, the first week of August of every year has been declared as Sight-Saving Week under Proclamation No. 40 issued on July 5, 1954, quoted as follows:

"WHEREAS, a preliminary survey made by the Philippine Eye Bank shows that approximately 40,000 blind Filipinos could have saved

their sight if the necessary precautions had been taken; and

"Whereas, this fact points up the necessity of carrying on an educational campaign throughout the country to prevent blindness among the people;

"NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby declare the first week of August of every year as Sight-Saving Week and designate the Philippine Eye Bank to take charge of the celebration of the Week."

Provincial Governors are requested to transmit the contents hereof to all municipal mayors under their jurisdiction.

ENRIQUE C. QUEMA
Assistant Executive Secretary

Department of Justice

ADMINISTRATIVE ORDER No. 97

June 24, 1954

AUTHORIZING JUDGE RODOLFO BALTAZAR OF PANGASINAN TO HOLD SPECIAL TERM OF COURT IN TAYUG, SAME PROVINCE.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Rodolfo Baltazar, Judge of the Third Judicial District, Pangasinan, Third Branch, is hereby authorized to hold special term of court in the municipality of Tayug, Province of Pangasinan, for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 98

June 25, 1954

AUTHORIZING JUDGE VICENTE DEL ROSARIO, QUEZON PROVINCE, TO HOLD COURT IN BALER, SUB-PROVINCE OF AURORA, QUEZON.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Vicente del Rosario, Judge of the Ninth Judicial District, Quezon Province, Third Branch, is hereby authorized to hold court in the municipality of Baler, Sub-province of Aurora, Quezon, for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 99

June 24, 1954

AUTHORIZING JUDGE JOSE M. MENDOZA OF ABRA TO HOLD COURT IN SANTA CRUZ, LAGUNA.

In the interest of the administration of justice, pursuant to the provisions of section 51 of Republic Act No. 296, as amended, and as per order of the Court of Appeals, the Honorable Jose M. Mendoza, Judge of the Second Judicial District, Abra, is hereby authorized to hold court in Santa Cruz, Laguna, Eighth Judicial District, as soon as possible, for the purpose of taking down the testimony of the witnesses in Criminal Case No. 15561 entitled "People *vs.* Virgilio Santos", the stenographic notes of whose testimony have been lost; and also to decide therein all cases tried by him while holding court in said province.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 100

June 25, 1954

AUTHORIZING JUDGE FILOMENO YBANEZ, PROVINCE OF LEYTE AND T[illegible] AND ORMOC CITIES, TO HO[illegible] ILOILO PROVINCE.

In the interest of the admini[illegible], pursuant to the provisions of s[illegible] Act No. 296, as amended, and[illegible] the Supreme Court, the Honorab[illegible] Judge of the Thirteenth Judicial [illegible] of Leyte and Tacloban and Ormo[illegible] Branch, is hereby [illegible]ized to hol[illegible] Province of Iloilo, [illegible]nth Judicia[illegible] the purpose of continu[illegible]he trial [illegible] begun by him and to ent[illegible]

ADMINISTR[illegible]

AUTHORI[illegible] NUEVA[illegible] TO HOL[illegible]

In the interest of the administration of justice and pursuant to the provisions of section 51 of Republic Act No. 296, as amended, the Honorable Jose N. Leuterio, Judge of the Fourth Judicial District, Nueva Ecija and Cabanatuan City, First Branch, is hereby authorized to hold court in the Province of Camarines Sur, Tenth Judicial District, for the purpose of continuing the trial of cases already begun by him and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 102

June 28, 1954

DETAILING JUDGE GUSTAVO VICTORIANO OF THE NINTH JUDICIAL DISTRICT, QUEZON PROVINCE TO CAMARINES NORTE, SAME JUDICIAL DISTRICT.

In the interest of the administration of justice and with the approval of the Supreme Court, the Honorable Gustavo Victoriano, Judge of the Ninth Judicial District, Quezon Province, is hereby detailed to the Province of Camarines Norte, same judicial district, for the purpose of rendering the decision in cases previously tried by him while presiding over the Court of First Instance of Camarines Norte.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 103

June 28, 1954

NG JUDGE JUAN L. BOCAR OF
TO HOLD COURT IN TACLO-

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as amended, the Honorable Juan
of the Seventh Judicial District,
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to ent gments therein.

PEDRO TUASON
Secretary of Justice

DER No. 104

June 28, 1954

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In the interest of the administration of justice and pursuant to the provisions of section 51 of Republic Act No. 296, as amended, the Honorable Primitivo Gonzales, Judge of the Seventh Judicial District, Cavite and the Cities of Cavite and Tagaytay, First Branch, is hereby authorized to hold court in the Province of La Union, Second Judicial District, for the purpose of continuing the trial of cases already begun by him and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 106

June 29, 1954

DESIGNATING SENIOR CLERK JOSE SAN JUAN OF THE REGISTRY OF DEEDS OF ZAMBOANGA CITY TO ACT AS REGISTER OF DEEDS FOR THE PROVINCE OF ZAMBOANGA DEL SUR.

In the interest of public service, and pursuant to the provisions of section 201 of the Revised Administrative Code, as amended by Republic Act No. 1138, Mr. Jose San Juan, Senior Clerk in the Registry of Deeds, Zamboanga City, is hereby designated to act as Register of Deeds for the Province of Zamboanga del Sur, effective July 1, 1954, until a regular register of deeds is appointed for said province or until further orders.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 107

June 30, 1954

AUTHORIZING JUDGE JOSE C. ZULUETA, PAMPANGA, TO HOLD SPECIAL TERM OF COURT IN SAN FERNANDO, PAMPANGA.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Jose C. Zulueta, Judge of the Fifth Judicial District, Pampanga, Second Branch, is hereby authorized to hold special term of court in the municipality of San Fernando, Province of Pampanga, for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 108

DESIGNATING PROVINCIAL FISCAL DEMETRIO VINSON OF CAPIZ TO ASSIST THE CITY ATTORNEY OF ROXAS CITY.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Demetrio Vinson, Provincial Fiscal of Capiz, is hereby designated to assist the City Attorney of Roxas City in the investigation and prosecution of the Criminal Cases entitled "People *vs.* Victor Acepcion, et al." and People *vs.* Maximo Aldaladejo, et al." for alleged violation of the Revised Election Code in connection with the last elections, in addition to his regular duties, effective immediately and to continue until the termination of said cases or until further orders.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 110

July 8, 1954

DESIGNATING CITY ATTORNEY PASCUAL S. ATILANO OF ZAMBOANGA CITY TO ASSIST THE CITY ATTORNEY OF BASILAN CITY TO INVESTIGATE AND PROSECUTE THE MORO JUWAK CASE.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Pascual S. Atilano, City Attorney of Zamboanga City, is hereby designated to assist the City Attorney of Basilan City in the investigation and prosecution of the Moro Juwak case, effective immediately and to continue until further orders.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 111

July 9, 1954

AUTHORIZING JUDGE PATRICIO C. CENIZA OF MISAMIS OCCIDENTAL AND OZAMIS CITY TO HOLD COURT IN ZAMBOANGA DEL NORTE.

In the interest of the administration of justice and pursuant to the provisions of section 51 of Republic Act No. 296, as amended, the Honorable Patricio C. Ceniza, Judge of the Sixteenth Judicial District, Misamis Occidental and Ozamis City, is hereby authorized to hold court in the Province of Zamboanga del Norte, same judicial district, for the purpose of continuing the trial of two important cases already begun by him and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 112

July 16, 1954

APPOINTING FIRST ASSISTANT PROVINCIAL FISCAL OSCAR VICTORIANO OF NEGROS ORIENTAL AS ACTING PROVINCIAL FISCAL OF SAID PROVINCE.

In the interest of the public service and pursuant to the provisions of section 1679 of the Revised Administrative Code, Mr. Oscar Victoriano, First Assistant Provincial Fiscal of Oriental Negros, is hereby appointed Acting Provincial Fiscal of said province, with compensation provided by law for the position, effective immediately and to continue until the appointment of a regular Provincial Fiscal thereof or until further orders.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 113

July 16, 1954

APPOINTING FIRST ASSISTANT PROVINCIAL FISCAL DAVID CARREON OF LAGUNA AS ACTING PROVINCIAL FISCAL OF SAID PROVINCE.

In the interest of the public service and pursuant to the provisions of section 1679 of the Revised Administrative Code, Mr. David Carreon, First Assistant Provincial Fiscal of Laguna, is hereby appointed Acting Provincial Fiscal of said province, with compensation provided by law for the position, effective immediately and to continue until the appointment of a regular Provincial Fiscal thereof or until further orders.

PEDRO TUASON
Secretary of Justice

Department of Agri... Natural Reso...

BUREAU OF FOR...

FORESTRY ADMINISTRA...

AMENDMENT T... TIVE ORDE... REVISED ... SPECIAL U...

1. Section 20 ... Order No. 8-3 of ... Regulations Gove... is hereby am...

"20 (*c*) *Rentals, when due.*—The initial rentals shall accrue on the first day of occupation if the area is already being used, otherwise on the first day of the quarter within which the permit or lease becomes effective and shall be paid in advance in the manner prescribed in the following paragraph prior to the issuance of such permit or lease. After the initial rental is paid, the annual payment shall become due on the first day of July of each year, except that of pasture which may be paid semi-annually the first half on or before June 30 and the balance on or before December 31."

2. *Date of taking effect.*—This Order shall take effect upon approval.

Approved, February 8, 1954.

SALVADOR ARANETA
Secretary of Agriculture and Natural Resources

Recommended by:

FELIPE R. AMOS
Director of Forestry

Department of Commerce and Industry

CIVIL AERONAUTICS ADMINISTRATION

ADMINISTRATIVE ORDER No. 38
Series of 1954

Pursuant to the provisions of paragraph 9 of section 32, Republic Act No. 776 approved June 20, 1952, the following rules and regulations are hereby promulgated for the observance of all persons concerned.

This ...ative Order shall be known as ...ns Part XI-C, governing Pro... ...vigation Services—Holding and ...nd any reference to said title ...ferring to this Administrative

...NAVIGATION SERVICE
...PROACH-TO-LAND

...N

...re used in the ...ervices—Holding ...ve the following

...—A series of pre... ...derly transfer ...t conditions ...proach to a landing, or to a point from which a landing may be made visually.

Initial approach.—That part of an instrument approach procedure consisting of the first approach to the first navigational facility associated with the procedure.

Intermediate approach.—That part of an instrument approach procedure from the first arrival at the first navigational facility or predetermined fix, to the beginning of the final approach.

Final approach.—That part of an instrument approach procedure from the time the aircraft has:

(*a*) completed the last procedure turn, where one is specified, or
(*b*) crossed a specified fix, or
(*c*) intercepted the last track specified for the procedure, until it has crossed a point in the vicinity of an aerodrome from which:

(*i*) a landing can be made, or
(*ii*) a missed approach procedure is initiated.

Critical height.—The height above aerodrome elevation at which descent during instrument approach should be discontinued if the approach cannot be continued visually.

Missed approach procedure.—The procedure to be followed if, after an instrument approach a landing is not effected.

Procedure turn.—A manoeuvre in which a turn is made away from a designated track followed by a turn in the opposite direction, both turns being executed so as to permit the aircraft to intercept and proceed along the reciprocal of the designated track.

Note. 1.—Procedure turns are desginated "left" or "right" according to the direction of the initial turn as follows:

(*a*) *Procedure turn left.*—A procedure turn in which the initial turn is to the left;
(*b*) *Procedure turn right.*—A procedure turn in which the initial turn is to the right.

Note 2.—Procedure turns may be designated as being made either in level flight or while descending, according to the circumstances of each individual instrument approach procedure, the only restrictions being that obstacle clearances specified at 2.3.2 not be infringed.

Holding procedure.—A predetermined manoeuvre which keeps an aircraft within a specified airspace whilst awaiting further clearance.

2.—GENERAL

2.1.—*Constants*

2.1.1 *Heights.*—Heights quoted in instrument approach procedures shall be related to aerodrome elevation unless otherwise stated.

2.1.2 *Rate of turn.*—All turns executed in instrument approach procedures should be Rate I turns.

NOTE.—A Rate I turn is a turn at the rate of 3° per second.

2.1.3.—*Rate of descent.*—In general a rate of descent of 2.5 metres per second (500 feet per minute) plus or minus 0.5 metres per second (100 feet per minute) should be used in determining instrument approaches-to-land.

2.2—*Initial Approach*

2.2.1 Where there are positive means of identifying position or of maintaining a designated track, the initial approach shall not be made below a height of 300 meters (1,000 feet) above all obstacles lying within a distance of at least five neutical miles on either side of the designated track.

2.2.2 Where there are no positive means of identifying position or of maintaining a designated track, the initial approach shall not be made below a height of 300 meters (1,000 feet) above all obstacles lying within a circular area having a radius of 25 nautical miles measured from the navigational facility.

2.2.3 The minimum heights in 2.2.1 and 2.2.2 shall be expressed in terms of altidude to the next higher 50 metres or 100 feet.

2.3.—*Intermediate Approach*

2.3.1 *Intermediate approach.*—The intermediate approach shall not be made below a height of 300 metres (1,000 feet) above all obstacles lying within a distance of at least 3 nautical miles from the on-course line or prescribed track on the side on which it is intended to manoeuvre and lying within a distance of at least 2 nautical miles on the other side and in addition at a minimum height of at least 150 metres (500 feet) above all obstacles lying within a distance of 5 nautical miles on either side of the prescribed track.

2.3.2 *Procedure turns.*—Procedure turns shall not be made below a height of 300 metres (1,000 feet) above all obstacles lying within an area extending for at least 3 nautical miles from the on-course line or prescribed track on the manoeuvring side and for at least 2 nautical miles on the other side and in addition not below a height of 150 metres (500 feet) above all obstacles lying within a distance of 5 nautical miles on either side of the on-course line or prescribed track. These areas shall extend parallel to the on-course line or prescribed track for the distance stated herein unless otherwise stated in the procedure:

Radio Range Non-Directional Beacon Bround D/y	12 nautical miles from the facility
VOR	8.7 nautical miles from the facility.

2.4.—*Missed Approach Procedures*

2.4.1 Missed approach procedures shall not prescribe turns from the axis of final approach until at least 90 metres (300 feet) vertical clearance above obstacles has been ensured.

2.4.2 Where a missed approach procedure prescribe a turn to avoid obstacles, the selection of the distance between the obstacle and the initiation of the turn should be based on the accuracy with which the initiation point can be indicated to the pilot.

2.5.—*Obstacle Clearance Limit*

For each radio aid to instrument approach at an aerodrome, the height above aerodrome elevation shall be declared below which the minimum prescribed vertical clearance cannot be maintained either on approach or in the event of a missed approach.

3.—VOR (VHF) OMNI-DIRECTIONAL RADIO RANGE) (LOCATED ON THE AERODROME)

3.1.—*Defined areas.* (See Figure 1)

3.1.1. *Final approach area.*—An area symmetrical about a final approach track of the VOR facility extending from the VOR facility for a distance of at least 8.7 nautical miles and increasing uniformly in width from at least 2.5 nautical miles at the facility to at least 7 nautical m[illegible] a distance of 8.7 nautical miles.

3.1.2 *Missed approach area.*—A[illegible] trical about the prescribed misse[illegible] extending from the VOR facility [illegible] of the missed approach for a distan[illegible] cal miles and increasing uniformly f[illegible] of the final approach area at the f[illegible] least 7 nautical miles at the outer [illegible] the missed approach area.

3.2 *Minimum obstacle clearanc[illegible]* procedures shall meet the [illegible] quirements for obstacle c[illegible] fined areas.

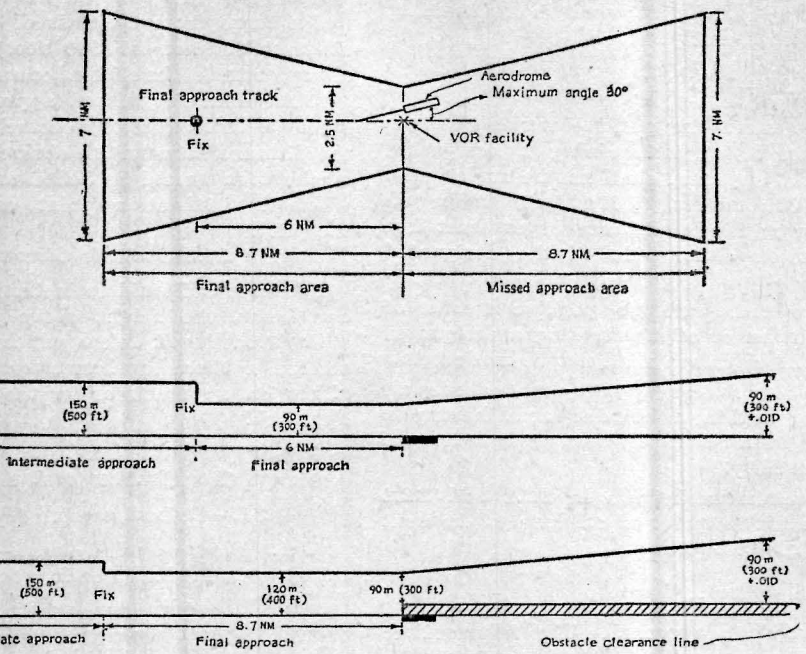
3.2.1 *Final ap[illegible]* clearances above [illegible] area, or designat[illegible]

(*a*) not le[illegible] above all obs[illegible] beginning at [illegible] more than [illegible] facility,

(*b*) not less than 120 metres (400 feet) above all obstacle in the final approach area, from the beginning of final approach, or from a navigational fix located not more than 8.7 nautical miles from the VOR facility.

3.2.2 *Missed approach.*—Missed approach procedures shall prescribe a minimum vertical clearance of 90 metres (300 feet) above obstacles at the end of the final approach area increasing uniformly to not les sthan 300 metres (1,000 feet) in accordance with the formula "90 metres + .CID" ("300 feet + .CID") where D is the distance in metres (feet) from the end of the final approach area measured along the prescribed track.

Fig. 1 VOR (OMNIDIRECTIONAL RÁDIO RANGE) Located on the aerodrome



(VHF OMNI-DIRECTIONAL RADIO RANGE
ocated off the Aerodrome)

ed areas. (*See* Figure 2)

approach area.—An area sym-
a final approach track of the VOR
nding from the runway and with a
least 3.5 nautical miles to the VOR
easing uniformly to a width of at
miles at the VOR facility, thence
ly in width from 2.5 nautical
cility to at least 7 nautical
.7 nautical miles.

area.—An area symmetri-
d approach track
al approach area
approach for a
nd increasing uni-
al approach area
8 nautical miles
missed approach

4.2 *Minimum obstacle clearances.*—VOR approach procedures shall meet the following minimum requirements for obstacle clearance within the defined areas.

4.2.1 *Final approach.*—The minimum vertical clearances above obstacles within the final approach area, or designated sector thereof, shall be:

(*a*) 90 metres (300 feet) above the VOR facility is located and more than 5 nautical miles from the aerodrome.

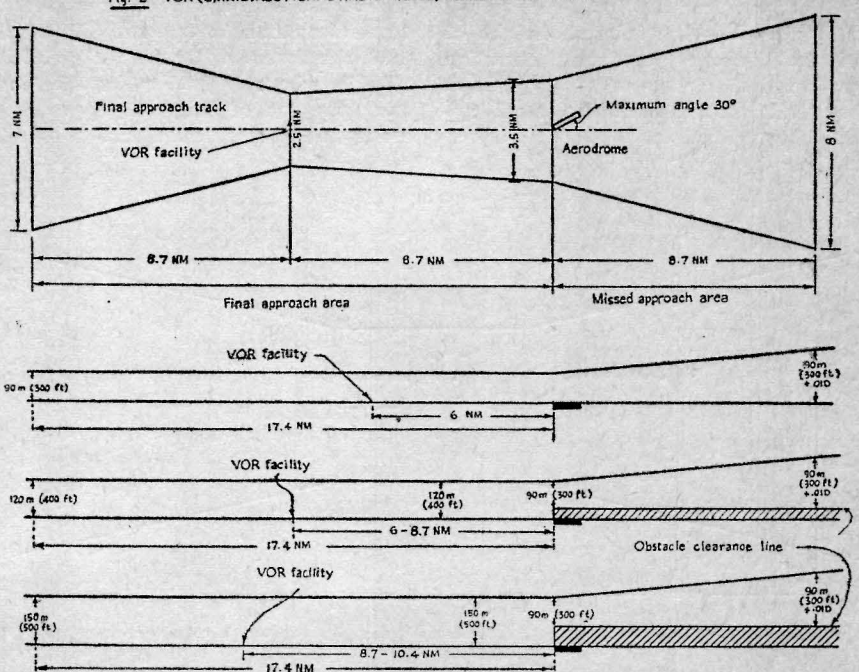
(*b*) 120 metres (400 feet) when the VOR facility is located 6 to 8.7 nautical miles from the aerodrome.

(*c*) 150 metres (500 feet) when the VOR facility is located 8.7 to 10.4 nautical miles from the aerodrome.

4.2.2 *Missed approach.*—Missed approach procedures shall prescribe a minimum vertical clearance of 90 metres (300 feet) above obstacles at the end of the final approach area increasing uniformly to not less than 300 metres (1,000 feet)

in accordance with the formula "90 metres + .CID" ("300 feet + .CID") where D is the distance in metres (feet) from the end of the final approach area measured along the prescribed track.

Fig. 2 VOR (OMNIDIRECTIONAL RADIO RANGE) Located off the aerodrome



5.—OBSTACLE CLEARANCE FOR AERODROME APPROACH SYSTEMS

Note.—The defined areas for radio ranges and for non-directional beacons reveal inconsistency due to a fundamental difference in conception. Until this inconsistency has been removed in the light of operational experience and further study, the area for radio ranges should be regarded as in the nature of a general guide, and the area for non-directional beacons as in the nature of minimum requirements.

The obstacle clearances for aerodrome approach systems prescribed herein shall apply when the navigational facility is situated within 6 nautical miles of the aerodrome to which the approach is made.

Note.—A navigational facility located more than 6 nautical miles from the aerodrome with which it it associated is considered as an aid to en route navigation unsuitable for use in making an instrument approach-to-land.

5.1.—*Radio Range*

5.1.1.—*Defined areas.* (*See* Figure 3)

5.1.1.1 *Approach to facility area.*—An area symmetrical about the line of approach to the navigational facility extending for at least 10 nautical miles from the facility on the side away from the aerodrome, and increasing uniformly in width from at least 5 nautical miles at the facility of the area.

5.1.1.2 *Final approach area.*—An a[rea] a at least 5 nautical miles wide, symmetrical a[bout] the line of final approach extending from [the] avigational facility towards but not beyond the [bound]ary of the aerodrome for a maximum [of] 6 nautical miles.

5.1.1.3 *Missed approach area.*—An a[rea] symmetrical about the prescribed missed [approach] track extending from the end of the final [approach] area in the direction of missed [approach] a distance of at least 10 nauti[cal] mi[les] ing uniformly in width f[rom] miles at the end of the [final] least 10 nautical m[iles] the missed approa[ch]

5.1.2. *Minimum ol[stacle]* approach proced[ures] quirements pre[scribed] within the defi[ned]

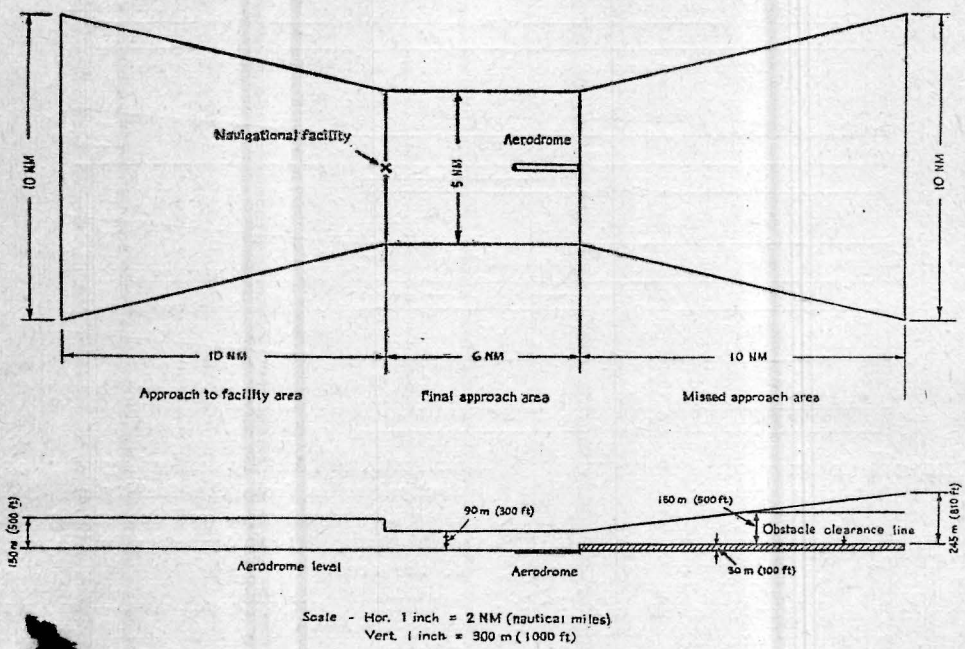
5.1.2.1 [*Minimum*] tical clear[ance]

(500 feet) shall be prescribed within the approach to facility area except that this clearance may be reduced in the case of the navigational facility itself.

5.1.2.2 *Final approach.*—A minimum height of 90 metres (300 feet) above aerodrome elevation and a minimum vertical clearance of 60 metres (200 feet) above all obstacles in the final approach area shall be prescribed.

5.1.2.3 *Missed approach.*—Missed approach procedures shall prescribe a minimum vertical clearance of 60 metres (200 feet) above obstacles at the end of the final approach area increasing uniformly to not less than 150 metres (500 feet) in accordance with the formula "60 metres + .CID" (200 feet + .CID") where D is the distance in metres (feet) from the end of the final approach area measured along the prescribed track.

Fig: 3.- RADIO RANGE



.—*Non-directional Beacon*

.—*Defined areas.* (*See* Figure 4)

Approach to facility area.—An area sym- bout the prescribed track to the naviga- ility extending from the facility away aerodrome for a distance of at least ile increasing uniformly in width al miles at the facility to at t the outer boundary of

.—An area at least rical about the line om the navigational e further bound- um distance of

area sym- approach approach h, for a increas-

ing uniformly in width from at least 2 nautical miles wide at the boundary and of the final approach area to at least 6.5 nautical miles at the outer boundary of the missed approach area.

5.2.2. *Minimum obstacle clearances.*—Non-directional beacon approach procedures shall meet the minimum requirements prescribed herein for obstacle clearance within the defind areas.

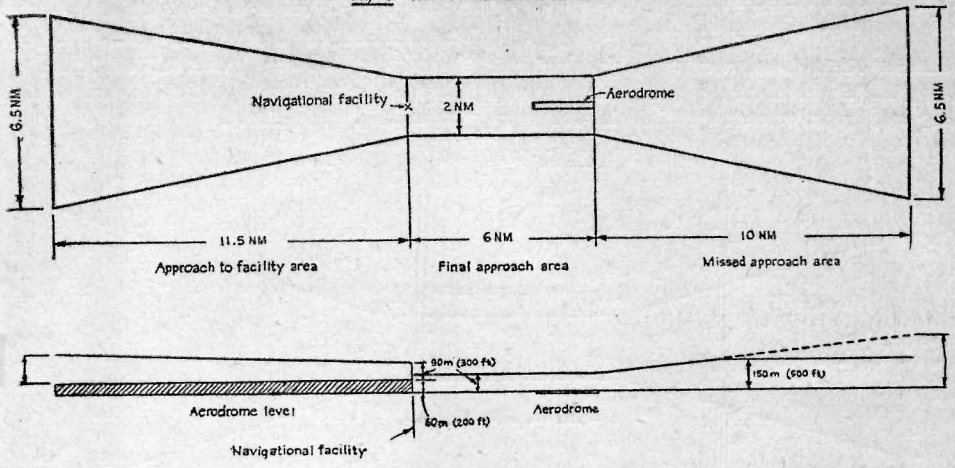
5.2.2.1 *Approach facility.*—A minimum vertical clearance above obstacle of 150 metres (500 feet) at the outer boundary of the area decreasing uniformly to 90 metres (300 feet) at the navigational facility shall be prescribed within the approach to facility area, provided that the prescribed maximum height above aerodrome elevation is not less than 150 metres (500 feet).

5.2.2.2 *Final approach.*—A minimum vertical clearance of 90 metres (300 feet) above all obstacles in the final approach area shall be prescribed.

5.2.2.3 *Missed approach.*—Missed approach procedures shall prescribe a minimum vertical clearance of 90 metres (300 feet) above obstacles at the

end of the final approach area increasing uniformly to not less than 150 metres (500 feet) in accordance with the formula "90 metres + .CID" ("500 feet + .CID) where D is the distance in metres (feet) from the end of the final approach area measured along the prescribed track.

Fig. 4.- NON-DIRECTIONAL BEACON



Scale - Hor. 1 inch = 2 NM (nautical miles)
Vert. 1 inch = 300 m (1000 ft)

5.3—D/F Facility

5.3.1.—*Defined areas.*—(*See* Figure 5)

5.3.1.1 *Approach to facility area.*—An area symmetrical about the prescribed track extending from the approach and of the aerodrome sector for a distance of 8.5 nautical miles and increasing uniformly in width from at least 2 nautical miles at the approach and of the aerodrome sector to at least 7 nautical miles at the outer boundary of the area.

5.3.1.2 *Aerodrome sector.*—An area symmetrical about the approach track, 2 nautical miles wide and 7 nautical miles long extending from a distance of 3 nautical miles on the approach side of the navigational facility to a distance of 4 nautical miles in the direction of missed approach.

5.3.1.3 *Missed approach area.*—An area symmetrical about the prescribed approach track extending from the end of the aerodrome sector in the direction of missed approach for a distance of 10 nautical miles and increasing uniformly in width from at least 2 nautical miles at the end of the aerodrome sector to at least 9 nautical miles at the outer boundary of the missed approach area.

5.3.2 *Minimum obstacle clearances.*—D/F facility approach procedures shall meet the minimum requirements prescribed herein for obstacle clearance with the defined areas.

5.3.2.1 *Approach to facility.*—A minimum vertical clearance above obstacles of 150 metres (500 feet) at the outer boundaries of the approach to facility area decreasing uniformly to 90 metres (500 feet) at the navigational facility shall be prescribed provided that this clearance is maintained above all obstacles in the aerodrome sector.

5.3.2.2 *Missed approach.*—Missed approach procedures shall prescribe a minimum vertical clearance of 90 metres (300 feet) above obstacles in the aerodrome sector. The prescribed minimum vertical clearance above obstacles in the missed approach area shall increase uniformly from 90 metres (300 feet) at the end of the aerodrome sector to not less than 150 metres (500 feet) in accordance with the formula "90 metres + .CID" (300 feet + .CID") where D is the distance in metres (feet) from the end of the aerodrome sector measured along the prescribed missed approach track.

6.—OBSTACLE CLEARANCE FOR VISUAL MAN
IN THE VICINITY OF THE AER

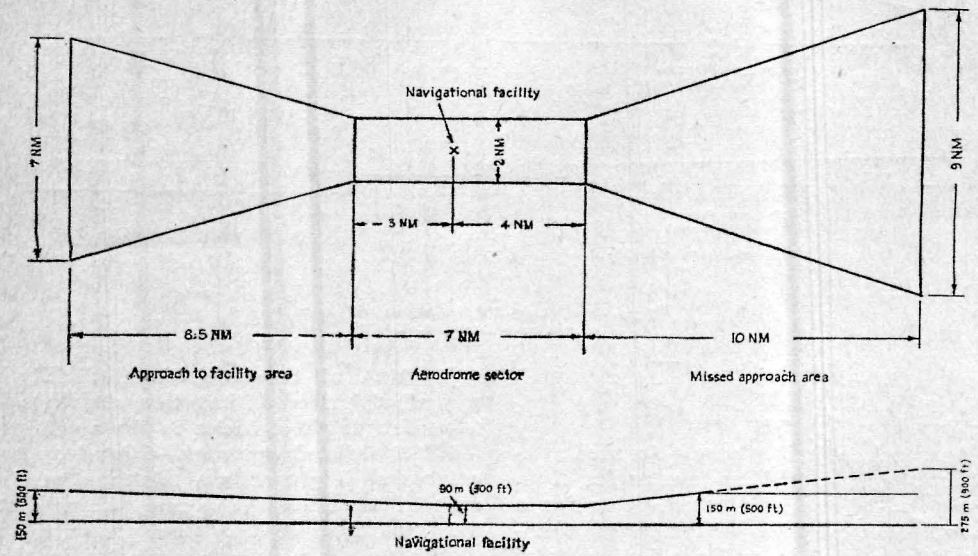
6.1 *Defined areas.*—The area
clearance in 6.2 apply should be of
may be required, taking into accou
with which an aircraft's position
tained between the poin vi
established and the po
runway to be used.
should be
having r

Note.—
determin
needs to
margins
procedure

to expert assessment. All characteristics of the aeroplane affecting its handling, as well as its performance, require to be considered. The figures cited is 6.2 are therefore minimal, and leave out of account all factors that are not common to all aircraft under favorable circumstances.

6.2 *Minimum obstacle clearance.*—When visual manoeuvring (i.e., flight clear of cloud) is required after making an instrument approach in order to align the aircraft with a runway other than that with which the aid in use is aligned, obstacle clearance for aircraft having a stalling speed in excess of 65 knots should be at least 90 metres (300 feet) above all obstacles within the area determined in accordance with 6.1. For aircraft having a stalling speed of 65 knots or less, the obstacle clearance may be reduced to not less than 60 metres (200 feet).

Fig. 5.- D/F FACILITY



Scale For 1 inch = 2 NM (nautical miles)
Vert 1 inch = 300 m (1000 ft)

7.—HOLDING PROCEDURES

7.1.—*General.* (*See* Figure 7)

7.1.1 *Airspace requirements for holding.*—The [illegible] compassing the space utilized by an aircraft performing a holding procedure at a [illegible] "rack track" shaped and will normally [illegible] an area 15 nautical miles long (12 [illegible] on the holding side of the fix and 3 [illegible] on the other side) and

[illegible] am facility 7.3 nautical miles on the [illegible] nautical miles on the [illegible] miles on the

[illegible] 7.5 nautical miles on the [illegible] on the [illegible] s on the

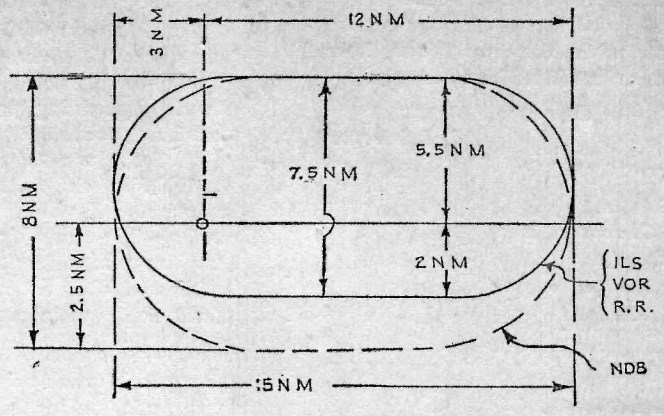
(*c*) in the case of a non-directional facility 8 nautical miles wide (5.5 nautical miles on the side of the turn and 2.5 nautical miles on the opposite side).

Note.—The areas specified above may be enlarged or reduced to meet the particular conditions and to allow for variation of fixing accuracy at certain locations. In places where there is dense air traffic additional facilities such as NDBs or radar monitoring may permit reduction of the size of these areas accordingly.

7.1.2 *Minimum holding altitude.*—The minimum altitude at which holding procedures may be performed shall be located at not less than 500 metres (1,000 feet) above all obstacles lying with the area described in 7.1.1 above.

Fig. 7

Diagram of Airspace Required for Holding. Based on a Specified Turn to Right.



7.2.—*Race track Holding Procedure.* (*See* Figure 6)

7.2.1 To hold at a specified holding point. execute the following manoeuvre, which is described in terms of still air conditions, adjusting times to retain the pattern taking the existing wind into account:

(*a*) after arriving over the holding point fly so as to align the aircraft inbound on the specified track;

Note.—Only the inbound track will be specified.

(*b*) execute a 180° rate one turn so as to fly outbound a track parallel to the specified inbound track;

(*c*) continue outbound for a period of either 1 minute or 3 minutes as specified;

(*d*) execute a 180° rate one turn so as to realign the aircraft on the specified track.

7.2.1.1 All turns required in connection with joining or maintaining the holding procedure shall be executed on the same side of the specified track as the outbound leg.

7.2.1.2 When flying a holding procedure and instructions are received specifying the time of departure from the holding point, the pilot should adjust his pattern within the limits of the established holding procedure in order to leave the holding point at the exact time specified.

7.2.2 Unless otherwise instructed by air traffic control the turns given in 7.2.1 (*b*) and (*d*) shall be to the right and the time given in 7.2.1 (*c*) shall be two minutes.

Note 1.—When it is required that the turns be made to the left or that the time along outbound track does not exceed one minute, air traffic control will give instructions to that effect.

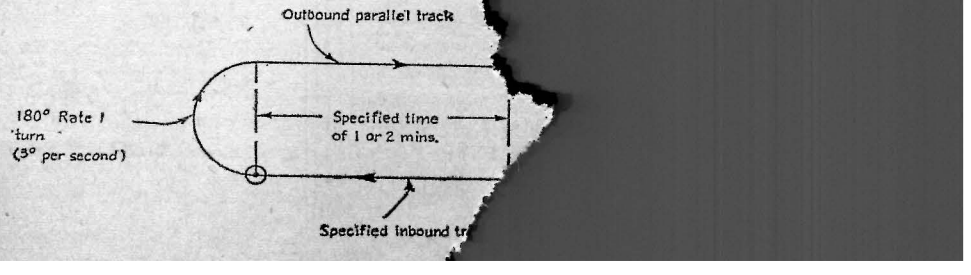
Note 2.—When a procedure is used which is different from the race track holding procedure:

(*i*) if the pocedure is specified in appropriate AIP's detailed instructions will not be given, but the instructions will stipulate "SPECIAL PROCEDURE". If the pilot is not familiar with the procedures, he sh[illegible]ld either consult the appropriate AIP or re[illegible]tailed holdin[illegible] instructions;

(*ii*) if the procedure [illegible] priate AIP's the hold[illegible] specified in detail.

Diagram of a Holding Pattern Based on a Radio Aid

Fig. 6



8.—EFFECTIVITY OF REGULATIONS

8.1 *Effective date of Regulations.*—These regulations shall take effect upon its approval.

8.2 *Inconsistent Regulations.*—All rules and regulations inconsistent with the provisions hereof are hereby repealed or modified accordingly.

UBANO F. CALDOZA
Administrator

Approved on June 16, 1954.

OSCAR LEDESMA
Secretary of Commerce and Industry

* * *

APPENDIX I

INTERMEDIATE AND FINAL APPROACH PROCEDURES

Note 1.—In the interests of standardization it is highly desirable that uniform patterns for instrument approach procedures should be followed as closely as possible in order to overcome the operational difficulties created by the many varied procedures practices in different parts of the world. Obstacle clearance is the primary safety consideration in developing instrument approach procedures, and because of variable factors such as terrain, aircraft characteristics and pilot ability, the following detailed procedures, based on present standard equipment and practices should be closely followed.

Note 2.—Throughout this text the signals QUX and QUV are used to indicate direction towards and away from respectively because the signals QDM and QDR have been deleted from the Q Code. Since, however the Communications Division of ICAO has recommended restitution of QDM and QDR in the Q Code and these signals are universally understood and used throughout the field of [illegible] included in parenthesis immediately [illegible] signals QUX and QUV re-

[illegible]DIRECTIONAL RADIO RANGE
[illegible]THE AERODROME)

[illegible]approach

[illegible]VOR facility at a height of 450 metres (1,500 feet) above the aerodrome elevation or at the initial approach altitude if lower than that height;

(*b*) Fly on QUV (QDR) of the final approach track for a period of two minutes;

(*c*) Execute a procedure turn on to the QUX (QDM) of the final approach track;

(*d*) Descend on this track a minimum obstruction clearance of 150 metres (500 feet) over the VOR facility;

(*d*) From the VOR facility descend on the prescribed track to the critical height.

1.1.1 *Navigational fix located on final approach track.*—If a navigational fix located in the final approach is utilized:

(*a*) *Fix on final approach track not more than six (6) nautical miles.*—Fly from the fix on the QUX (QDM) of the final approach track descending to the critical height or a minimum obstruction clearance of 90 metres (300 feet) whichever is higher.

(*b*) *Fix on final approach track six (6) nautical miles but not more than 8.7 nautical miles.*—Fly from fix on QUX (QDM) of the final approach track to the critical height or a minimum obstruction clearance of 120 metres (400 feet) whichever is higher.

Note 1.—Selection of final approach track.—The final approach track selected will be a track (degrees magnetic) which intersects the extended centre line of the runway at a specified distance from the approach end of the runway. Therefore, there can be only one final approach track selected for any one procedure.

Note 2.—Final track runaway interception angle with distances.—The angle of interception of the final approach track with the centre line of the runaway or its extension, and the distance from the point of interception to the runway end, should not exceed the following ratios:

Angle	*Distance (nautical miles)*
0°	0
7°	¼ mile
14°	½ mile
21°	¾ mile
28°	1 mile

For final approach tracks falling at points other than the above specified distances, the interpelation should be applied at a ratio of 28° to one nautical mile. Straight-in approaches will not be established requiring angles of interception of more than 30°.

1.2.—*VOR (VHF Omni-directional Radio Range) (Located off the Aerodrome)*

2.—AERODROME APPROACH SYSTEMS

Note.—When convenient to start these procedures over the radio facility at heights greater than 1,500 feet above the aerodrome elevation, height may be lost during the intermediate approach.

2.1.—*Radio Range*

(*a*) Commence approach over the range station at a height of 450 metres (1,500 feet) above the aerodrome elevation or at the initial approach altitude if lower than that height;

(*b*) Flyaway from the range station on the prescribed track for a period of two minutes;

(*c*) From a procedure turn to head the aircraft towards the range station on the prescribed track;

(*d*) Descend on the prescribed track to a height above the aerodrome of 150 metres (500 feet) over the range station;

(*e*) From the range station descend on the prescribed track to the critical height.

2.2–*Non-directional Radio Beacon*

(*a*) Commence approach over the beacon at a height of 450 metres (1,500 feet) above the aerodrome elevation or at the initial approach altitude if lower than that height;

(*b*) Fly for a period of 2 minutes on the reciprocal of the prescribed track;

(*c*) Make a procedure turn to head the aircraft towards the beacon on the prescribed track;

(*d*) Descend on the prescribed track to a height above the aerodrome of 150 metres (500 feet) over the beacon;

(*e*) From the range station descend on a prescribed track to the critical height.

2.2—*Non-directional Radio Beacon*

(*a*) Commence approach over the beacon at a height of 450 metres (1,500 feet) above the aerodrome elevation or at the initial approach altitude if lower than that height;

(*b*) Fly for a period of 2 minutes on the reciprocal of the prescribed track;

(*c*) Make a procedure turn to head the aircraft towards the beacon on the prescribed track;

(*d*) Descend on the prescribed track to a height above the aerodrome elevation of 130 metres (500 feet) over the beacon;

(*e*) From the beacon descend on a prescribed track to the critical height.

Note 1.—Where the beacon is not suitably sited in relation to the aerodrome for the procedures in (*d*) *and* (*e*) to be followed, descend to the critical height may be completed before passing over the beacon on *final approach.*

Note 2.—A procedure differing from the above is in use and is described it Attachment A.

2.3.—*D/F Facility*

(*a*) Commence approach over the D/F station at a height of 450 metres (1,500 feet) above the arerodrome elevation or at the initial approach altitude if lower than that height;

(*b*) Fly for a period of 2 minutes on a track at 20° from the reciprocal of the prescribed track;

(*c*) Turn to head the aircraft towards the D/y station onthe prescribed track;

(*d*) Descend on the prescribed track to the critical height.

Note.—Where D/F station is suitably sited in relation to the aerodrome the descent to the critical height may be completed after passing over the D/F station on the final approach.

ADMINISTRATIVE ORDER NO. 39
Series of 1954

Pursuant to the provisions of paragraphs 2 and 9, section 32 of Republic Act 776, approved June 20, 1952, the following rules and regulations governing the operation of air traffic within the vicinity of airports which are not served by aerodrome traffic control services are hereby published for the guidance of all concerned.

1. *Landing*

1.1 An aircraft in flight, or operating on the ground shall give way to other aircraft landing or on final approach to land.

1.2 Aircraft approaching the airport shall observe other aircraft in the traffic circuit and conform with the pattern currently in use and should not cut in on other aircraft in the circuit. turns shall be made to the lef[illegible]cept w[illegible] otherwise specified.

1.3. Aircraft with gross weig[illegible] pounds shall follow[illegible]ffic c[illegible] miles from the [illegible]e of t[illegible] at an altitude [illegible]

1.4 Aircraft[illegible] pounds shall f[illegible] miles from the [illegible] altitude of 500[illegible]

1.5 Straight-i[illegible] made. The assoc[illegible] station at the air[illegible] thorize straight-in a[illegible]

2. *Take-offs*

2.1 Engine run[illegible] formed on the [illegible] provided. In

made with the longitudinal axis of the aircraft perpendicular to the heading of the ruway.

2.2 All take-offs shall normally be made into the wind only after positive assurance has been determined that there is no danger of collision.

2.3 All turns after take-off shall be made to the left, except when leaving the traffic circuit when a 45-degree turn is made to the right.

3. The traffic circuits for Bacolod Airport are hereby published and appended hereto as an illustration of the implementation of the above provisions.

4. *Penalties*

4.1 *Violations and Penalties.*—Such penalties prescribed by Republic Act No. 776, approved June 20, 1952, as may be proper in each particular case, shall govern in respect of violations of these rules and regulations.

5. *Effectivity*

5.1 *Repeal of inconsistent procedures.*—Any procedures that may be inconsistent herewith are hereby superseded.

5.2 This shall take effect upon its approval.

URBANO B. CALDOZA
Administrator

Approved, June 16, 1954.

OSCAR LEDESMA
Secretary of Commerce and Industry

ADMINISTRATIVE ORDER NO. 39–A
Series of 1954

June 18, 1954

Pursuant to the provisions of section 51 of Republic Act No. 776, for the observance of all persons concerned, Administrative Order No. 24, series [illegible] paragraph 5.1 thereof amending Administrative Order No. 3 approved December 11, 1953 is hereby amended to read as follows:

[illegible] the issuance of mimeographed copies of the Rules and Regulations beyond P1 per [illegible]der, or copy of [illegible] the number of [illegible]

[illegible] approval.

[illegible]NO B. CALDOZA
Administrator

Central Bank of the Philippines

CIRCULAR NO. 53

June 18, 1954

REGULATIONS AMENDING CIRCULAR NO. 25, AS AMENDED BY CIRCULARS NOS. 27 AND 33, RELATIVE TO THE COLLECTION OF THE SPECIAL EXCISE TAX ON FOREIGN EXCHANGE SOLD BY THE CENTRAL BANK OF THE PHILIPPINES AND ITS AGENTS.

Pursuant to the provisions of section 7 of Republic Act No. 601, as amended by Republic Acts Nos. 814, 871 and 1175, the following regulations relative to the collection of the special excise tax on sales of foreign exchange and exemption from the said tax are hereby promulgated:

1. Authorized Agents shall, except as otherwise indicated below, collect on every sale of foreign exchange, and purchasers of foreign exchange shall pay to Authorized Agent selling the foreign exchange, an excise tax of 17 per cent on the value in Philippine pesos of such sale. No sale of foreign exchange except as otherwise herein provided shall be effected without payment of the tax.

2. For each taxable sale of foreign exchange, Authorized Agents shall issue an official receipt showing clearly the date of sale, the breakdown of the CIF value and the correspondent's charges, the name of the selling Authorized Agent, the name of the purchaser, the amount of the foreign exchange sold, the amount of the tax collected, and the number of the import or exchange license, the number of the letter of credit, and the account or reference number, if any. This official receipt shall be accomplished in quintuplicate, the original thereof to be given to the purchaser, the duplicate and triplicate to be submitted to the Central Bank, the quadruplicate to be furnished the Secretary of Finance, and the quintuplicate to be kept by the Authorized Agent and made part of its permanent records. These official receipts will be supplied to Authorized Agents upon submittal of requisitions therefor to the Central Bank.

3. At the end of each business day, Authorized Agents shall make an abstract of all taxable sales of foreign exchange effected during the day, showing clearly the names of purchasers of taxable foreign exchange, the amount of exchange sold to each, the purpose of the purchase of foreign exchange, rate of exchange used and the peso equivalent, the number of the covering exchange license, Import Control or PRISCO license, or letter of credit, as the case may be, the amount of the tax collected, and the number of the

official receipt. The amounts of the taxable sales effected and of the tax collected during the day shall be footed to show the totals thereof.

4. On each business day next following the day of sale of foreign exchange, Authorized Agents shall submit to the Chief Accountant of the Central Bank a credit advice for the amount of the tax collected by them on sales of foreign exchange affected during the preceeding day accompanied by the following:

(*a*) Abstract of collection mentioned in paragraph numbered 3 hereof (in duplicate); and

(*b*) The duplicate, triplicate and quadruplicate official receipts issued covering collections of the excise tax on sales of foreign exchange effected during the preceding day arranged in numerical order. Cancelled receipts, including the originals, if any, shall likewise be submitted.

5. (*a*) Sales of foreign exchange for any of the following purposes are exempt from the payment of the exchange tax:

(*i*) Payment in respect of re-insurance;

(*ii*) Payment in respect of marine and aviation insurance;

(*iii*) Payment of purchase price of vessels or ships of any kind or nature intended for Philippine registry, 90 per cent of the ownership of which belongs exclusively to Filipinos;

(*iv*) Charter fees of airplanes and vessels of Philippine register;

(*v*) Payment of principal and interest of foreign loan contracted under obligation of the Philippine Government or any of its instrumentalities;

(*vi*) Payment of premiums by veterans on life insurance policies under the Government of the United States; and

(*vii*) Payment of premiums and other amounts due by policyholders on life insurance policies issued before December 9, 1949.

(*b*) Licenses authorizing the sale of foreign exchange for any of the purposes enumerated in subparagraph (*a*) hereof shall be plainly marked "Exempt from the Payment of Exchange Tax" by the Office of Exchange Tax Administration.

6. Sales of foreign exchange used for the payment of the cost, transportation and/or other charges incident to importation into the Philippines of the following articles are likewise exempt from the payment of the exchange tax:

(*a*) Canned milk;
(*b*) Canned beef;
(*c*) Canned fish;
(*d*) Chocolate;
(*e*) Malt
(*f*) Stabilizer and flavors;
(*g*) Vitamin concentrate;
(*h*) Supplies and equipment purchased directly by the Government or any of its instrumentalities for its own exclusive use;
(*i*) Machinery, equipment, accessories, and spare parts for the use of industries, miners, mining enterprises, planters and farmers;
(*j*) Fertilizers when imported by planters or farmers directly or through their cooperatives;
(*k*) Articles or containers used, including materials for the manufacture of tin containers used by the importer himself in the manufacture or preparation of local products for consignment or export abroad;
(*l*) Textbooks, reference books, and supplementary readers approved by the Board on Textbooks and/or established public or private educational institutions;
(*m*) Paper imported by publishers for their exclusive use in the publication of books, pamphlets, magazines and newspapers;
(*n*) Carbides, explosives and dynamite for mining purposes;
(*o*) Drugs and medicines, and hospital supplies listed in the appendix of Republic Act No. 1175 attached to this Circular;
(*p*) Spare parts to be used in the repair of vessels of Philippine registry or airplanes and such other parts thereof as may be certified by the Hulls and Boilers Division of the Bureau of Customs or the Civil Aeronautics Administration, respectively, as essential to the maintenance of vessels or airplanes; and
(*q*) Machinery and/or raw materials to be used by new and necessary industries as determined in accordance with Republic Act No. 35.

7. (*a*) Application for exemption from the exchange tax on remittances of foreign exchange for the payment of the cost, transportation a[illegible]er charges incident to the importation in[illegible]pines of any of the items enumerated [illegible]6 shall be filed in[illegible]e, in quadrup[illegible]applying for re[illegible]he Office Tax Administr[illegible]nied ing documents:

(1) Tr[illegible] the cover[illegible] and

([illegible]Tru[illegible] of[illegible] vo[illegible]

Whetl[illegible] mentio[illegible] certifie[illegible] ized A[illegible] o[illegible] T[illegible]

(*b*) In the case of the payment of the purchase price of vessels or ships of any kind intended for Philippine registry, 90 per cent of the ownership of which belongs exclusively to Filipinos, as mentioned in paragraph 5 (*a*) (*iii*), the applicant for exemption, if a corporation or partnership, shall submit a certification from the Securities and Exchange Commissioner that at least 90 per cent of the ownership of the said vessels or ships is exclusively Filipino, and, if an individual, a certification from the Commissioner of Customs to the effect that the owner is a Filipino, shall be submitted.

(*c*) In the case of supplies and equipment mentioned in paragraph 6 (*h*), to be entitled to exemption, the articles imported should be for the exclusive use or consumption of the Government or any of its instrumentalities.

(*d*) In the case of the items falling under paragraph 6 (*i*), it is only the payment of the machinery, equipment, accessories and spare parts which are absolutely indispensable to the operation of industries, miners, mining enterprises, planters and farmers which will be entitled to the exemption provided for by law. Office equipment such as typewriters, computing and tabulating machines, filing cabinets, air-conditioning units, except the refrigeration units of fishing vessels, electric fans and other items of office equipment are not entitled to exemption from the exchange tax.

The importer should accompany the application for exemption, in addition to the documents prescribed in paragraph 7 (*a*), with an affidavit setting forth the end use of the machinery, equipment, accessories and spare parts, that is, whether the machinery or equipment is for manufacturing, mining, farming, or some other industry. In the case of miners and mining enterprises, the applicant for exemption shall also submit the certification required in paragraph 7 (*i*).

(*e*) In the case of fertilizers mentioned in para- , in addition to the documents mentioned h 7 (*a*) hereof, an affidavit should be y the planter or farmer concerned, or sident or M the cooperative, other e importer is a er the case of a na being imported e location and l product being

nder aragraph to the follow-

porter, orpora- part- ve n- tin

containers, will be used in the manufacture or preparation of the local products to be designated as to the kind, nature and trade mark for consignment for export abroad, and stating the period within which such consignment or exportation will be made;

(*ii*) A bond by two persons (preferably high executive officials of the importer, if it is a firm) acceptable to the Central Bank, guaranteeing the payment of the exchange tax if the local products in the manufacture or preparation of which the articles or containers, or materials for the manufacture of tin containers, were used are not exported or consigned abroad within the time specified in the application.

The bond shall be cancelled upon the presentation of evidence by the importer of the articles or containers, or materials for the manufacture of tin containers, that these were used by him in the manufacture or preparation of local products which were *consigned or* exported abroad.

In the case of "articles," a certification of the Commissioner of Customs should be submitted to the effect that the products of local manufacture have been actually exported, stating the kind, the trade mark, quantity and declared value of such local products, the name of the vessel in which the local products were loaded, and the date the said vessel left the port of entry indicated.

In the case of "containers" a certification of the Commissioner of Customs should be submitted to the effect that the containers, stating the number and marks, date of importation, port of entry and name of the carrying vessel, were exported abroad, stating the number and marks of such containers, the date of exportation, port from which exported, and name of carrying vessel.

(*iii*) In the case of "materials for the manufacture of tin containers," the importer should submit a statement of production, in addition to the documents prescribed in sub-paragraphs (*i*) and (*ii*) immediately preceding.

(*g*) In the case of textbooks, reference books, and supplementary readers mentioned in paragraph 6 (1), the importer shall submit, in addition to the documents enumerated in paragraph 7 (*a*), a written certification of the Board on Textbooks and/or established public or private educational institutions that the textbooks, reference books and supplementary readers mentioned have been approved for use in the schools.

(*h*) In the case of articles falling under paragraph 6 (*m*), the importer shall submit, in addition to the documents in paragraph 7 (*a*), an affidavit stating that he has imported the paper for his exclusive use in the publication of books, pamphlets, magazines or newspapers (giving the name

of such books, pamphlets, magazines or newspapers). Two photostatic copies of the internal revenue tax-receipt as publisher should also be submitted.

(*i*) In the case of the articles mentioned in paragraph 6 (*n*), a certification from the Director of Mines that the applicant for exemption is engaged in mining, specifying at the same time the mineral product being extracted, should be submitted, aside from the documents prescribed in paragraph 7 (*a*).

(*j*) In the case of articles mentioned in paragraph 7 (*a*), a certification from the Secretary of Health should be submitted by the applicant for exemption to the effects that the vitamin preparations being imported are not manufactured locally in sufficient quantities.

(*k*) In the case of articles falling under paragraph 6 (*q*), the importer shall submit, in addition to the documents specified in paragraph 7 (*a*), (1) a true copy certified by an authorized official of the Department of Finance, or a photostatic copy of the certification given by the Secretary of Finance that the importer has been granted exemption from the payment of internal revenue taxes under the provisions of Republic Act No. 35; (2) certified true copies in duplicate of the release certificates issued by the Department of Finance; and (3) a sworn statement with a guarantee by the importer that the machinery and/or raw materials imported shall be used in the new and necessary industry granted exemption from internal revenue taxes. If upon investigation it shall be found that the machinery and/or raw materials mentioned in the application for exemption from the exchange tax have not been used for the purpose stated in the guarantee, the tax shall be collected.

(1) Such other documents as may be required by the Central Bank should be submitted.

8. The exemption from the exchange tax of the remittances mentioned in paragraphs 5 and 6 of this Circular shall take effect on June 18, 1954, the date of the approval of Republic Act No. 1175.

9. Upon receipt of an application for exemption from the exchange tax provided in paragraph 7 (*a*), such application shall be processed and if found in order, the exemption applied for shall be authorized in writing by the Officer in Charge, Office of Exchange Tax Administration.

10. The Central Bank reserves the right to order an examination of any transaction covered by these regulations and the verification of any statement or representation in respect to the sale of foreign exchange and of such sales of foreign exchange, with a view of collecting the tax due and applying the provisions of section 6 of Republic Act No. 601, as amended.

11. Any person violating any provision of these regulations shall be subject to the penalty prescribed in section 6 of Republic Act No. 601, as amended: *Provided, however,* That if the offender is a corporation, association, or partnership, the penalty shall be imposed upon the president, directors, managers, managing partners, as the case may be, and/or the person charged with the administration thereof.

12. These regulations shall take effect immediately.

For the Monetary Board:

M. CUADERNO, Sr.
Governor

Approved by the Monetary Board on June 18, 1954.

F. STA. ANA
Secretary

* * *

APPENDIX

DRUGS AND MEDICINES

1. Adrenalin (Epinephrine) Chloride and preparations
2. Aluminum Hydroxide preparations
3. Amebacides except emetine preparations
4. Amino Acid preparations, solutions, parenteral
5. Antihelmintic preparations except calomel, santonin
6. Antihistaminic preparations
7. Antihypertension and vasodilator agents
8. Anti-Leprosy preparations
9. Antimalarials except quinine preparations
10. Antipyretics not manufactured locally
11. Antisyphilitic preparations
12. Antitetanic serum
13. Aureomycin preparations
14. B–Complex Capsules
15. Barbiturates and their preparations
16. Blood testing serums and solutions
17. Cardiac stimulants except aminophylline preparations.
18. Castor Oil
19. Cathartic Pills
20. Chenopodium
21. Chlorazene
22. Chloromycetin
23. Coagulants
24. Cortison
25. Cura
26. Diag
27. Digit
28. Diph
pre
29. Diph
30. Di
31.

32. Drugs and medicines for the use of the dental and veterinary professions
33. Ergot preparations and derivatives
34. Ferrous Sulphate preparations
35. Gas Gangrene Antitoxin
36. Gland products and synthetic substitutes
37. Heparin derivatives
38. Homogenized Baby Foods (vegetables, fruits and meats)
39. Hormore preparations
40. Hydrogen Peroxide preparations
41. HTH—Commercial
42. Insulin preparations, all forms
43. Laboratory Stains
44. Liquor Cresolis Compositus and other disinfectants
45. Liver Extract preparations
46. Magnesium Hydroxide preparations
47. Magnesium Trisilicate compounds
48. Mercurial Diuretics
49. Mercurochrome, crystals
50. Merthiolate preparations
51. Multivitamin Capsules
52. Neomycin and preparations
53. Novocain and other anaesthetics for general spinal, intravenous, local or dental use
54. Opium, its alkoloids and their salts, its derivatives, their preparations and synthetic substitutes
55. Pancreatic extracts preparations
56. Plasma
57. Pregnenolon Acetate and preparations
58. Protein Solutions, powders and compounds
59. Quarternary Ammonium compounds and other fungicidal agents
60. Saccharine preparations and substitutes
61. Salt Substitutes
62. Similac, Klim, Lactogen and dehydrated powdered milk
63. Sulphur
64. T[illegible]ramycin a[illegible] preparations

[illegible] Tuberculin [illegible] PD, 1st and 2nd Tests

[illegible] Vitami[illegible] [illegible]t manufactured locally

[illegible] manufactured locally

[illegible]ons

[illegible]at[illegible]

[illegible]PPLIES

[illegible]aris

9. Gauze, plain
10. Gauze, sponges
11. Jelly, Lubricating, plain or anaesthetics
12. Major Operating table (not examining table)
13. Needles, hypo, all sizes
14. Operating lights
15. Optometric instruments and supplies
16. Pads, obstetrical
17. Plasters, adhesive, all sizes
18. Sterilizers, autoclaves
19. Surgical instruments
20. Surgical, crinoline
21. Sutures, all kinds and sizes
22. Syringes, hypo, all sizes
23. X-Ray films, developers and fixers
24. X-Ray equipment and supplies
25. Radium for therapy

CIRCULAR NO. 55

July 6, 1954

SECTION 1.

Section 4 of Circular No. 42 dated May 21, 1953, of the Central Bank, is hereby amended to read as follows:

"SECTION 4. (*a*) Philippine residents entering the Philippines from abroad shall, upon entry into the country, accomplish in triplicate a currency declaration on E.C. Form No. 303, Revised. The original and duplicate shall be submitted to Agents of the Central Bank of the Philippines at the pier or airport of entry and the triplicate retained by the person reporting. All foreign exchange carried by the resident entering the Philippines shall, at the time of entry, be surrendered and/or deposited by him with the authorized representative of the Central Bank of the Philippines at the point of entry. In places where there are no representatives of the Central Bank of the Philippines, the incoming Philippine resident shall sell all foreign exchange brought by him in whatever form to an Authorized Agent of the Central Bank of the Philippines within one business day after his arrival.

"(*b*) Philippine residents leaving the Philippines for abroad shall, upon departure, surrender to the representatives of the Central Bank of the Philippines at the pier or airport of departure their copies of the foreign exchange licenses issued to them by the Exchange Control Department or by an Authorized Agent of the Central Bank of the Philippines. If the departing resident is not carrying foreign exchange, he shall submit to the Central Bank Agent at the pier or terminal of departure his copy of his exemption certificate from the requirement to possess foreign exchange li-

cense for travel prior to the sale of passage tickets in peso currency.

"(*c*) Visitors entering the Philippines shall, upon entering the country, execute in duplicate a currency declaration on E.C. Form No. 305, Revised. The original of the accomplished declaration shall be surrendered to Agents of the Central Bank of the Philippines at the pier or airport of entry and the duplicate shall be retained by the visitor. The visitor may carry with him the foreign exchange declared by him but to meet his local currency requirements during his stay in the country, *he shall sell* foreign exchange for Philippine pesos only to the Authorized Agents of the Central Bank of the Philippines or to Central Bank tellers stationed at the piers or airport. Each sale shall be recorded at the back of the visitor's copy of E.C. Form No. 305. Upon leaving the Philippines, the temporary visitor shall supply the information called for at the back of E.C. Form No. 305 by indicating the total amount of foreign exchange sold by him for Philippine pesos and the balance held at the time of departure. After signing the form, he shall hand it over to Agents of the Central Bank of the Philippines at the pier or airport of departure.

"(*d*) E.C. Forms Nos. 303, Revised, and 305, Revised, shall be obtained from the purser of the ship or airliner or from the Agents of the Central Bank of the Philippines assigned at the point of entry or departure.

"(*e*) When there are reasonable grounds to believe that any resident or temporary visitor is bringing foreign exchange and/or Philippine currency into the Philippines in violation of the regulations of the Central Bank of the Philippines, or is carrying foreign exchange and/or Philippine currency out of the country contrary to the provisions of said regulations, Central Bank Agents shall secure the assistance of the Customs and other competent authorities in searching the person and luggage of the suspect, and the foreign exchange and/or Philippine currency involved shall be treated as provided by law."

SECTION 2.

This circular shall take effect upon its approval.

For the Monetary Board:

M. CUADERNO, SR.
Governor

Approved by the Monetary Board on July 6, 1954, Res. No. 1096.

F. STA. ANA
Secretary

IMPORT—EXPORT OFFICE

REGULATION NO. 10

Implementing Circular No. 44

BASIS OF FOREIGN EXCHANGE ALLOCATIONS FOR THE PAYMENT OF IMPORTS FOR THE SECOND SEMESTER, 1954.

I.—GOVERNMENT ENTITIES

A. *Definition*—

The term "government entities" shall include all political subdivisions and instrumentalities of the Government, the Armed Forces of the Philippines, and corporations wholly owned or the majority interest in which is owned by the Government.

B. *Instructions to Agent Banks*—

1. All government entities desiring to purchase foreign exchange to pay for imported merchandise during the second semester, 1954 shall apply with the Philippine National Bank for their respective exchange quotas.

2. An amount equivalent to the first semester, 1954 quota allocation is hereby certified to the Philippine National Bank, the utilization of which shall be limited to highly essential and essential categories.

3. A government entity who desires to purchase foreign exchange in payment of imports through any bank other than the Philippine National Bank may do so upon prior notification to the latter. The Philippine National Bank shall thereupon deduct from its government entities' quota the amount desired to be transferred and shall make a certification thereof to the transferee bank together with a statement of pertinent data on the category of goods which shall be confined to highly essential items only.

4. All exchange quotas transferred from the Philippine National Bank to another bank shall be considered as non-re[illegible]tas

5. In the event tha[illegible] exchange applied for [illegible] tion set forth in para[illegible] modities sought to b[illegible] non-essential category, [illegible] the supporting pa[illegible]ers [illegible] Philippine Nation[illegible] for action.

A. *Defi[illegible]*

The tern[illegible]

1. *Prod[illegible] Mineral* [illegible] who, by [illegible] raw materi[illegible] terial, or ma[illegible]

products, for the purpose of sale or distribution to the general public and/or for sale abroad and not for his own use or consumption.

2. *Public Utilities.*—Any organization, either public or private, impressed with a public interest providing some public service such as transportation, for either passengers or freight, communications (telephone, wire or wireless telegraph, radio broadcasting), power, gas, electricity, water supply, and sewerage system, and those operating bonded warehouses, wharves or docks, shipyards, and ice plants.

3. *Hospitals.*—Any institution which is primarily established and operated for the care and medical treatment of the sick or injured.

4. *Publishers.*—Any person or organization engaged primarily in the business of publishing books, pamphlets, newspapers, and other papers for sale or circulation to the general public.

5. *Educational Institutions.*—Any accredited institution recognized by the Government which is established and operated primarily for the improvement of the mental, moral and intellectual faculties of individuals. *Provided,* that they produce on a commercial scale; i.e., the production for sale in the normal course of business in quantities and at prices which justify the operation of an industrial or agricultural unit as a going concern with a reasonable degree of permanency and at a fixed place of business.

B. *Classification.*—Producers may be old or new as defined hereunder:

1. "Old Producers" are such enterprises as described in paragraph A above:

(*a*) that were granted foreign exchange quotas either as Old or New Producers from July 1, 1953 to June 30, 1954; or

(*b*) that have been established and in continuous operation for at least six months prio[illegible] to J[illegible] without the benefits of [illegible]ota.

[illegible] those enterprises that [illegible]ucers" but either have [illegible]ve only been in opera[illegible]s of July 1, 1954 with[illegible]gn exchange quota.

[illegible] to Authorized [illegible], 1954:

[illegible]n payment [illegible]nd "*spare* [illegible] the first [illegible]Producers" [illegible]ualified and [illegible]ank prior to [illegible]ments granted [illegible]nkers' Com[illegible]t importations of leaf tobacco and flour which are subject to special allocation by the Monetary Board. Any advance quota allocations for the second semester, 1954 which were approved by the Monetary Board during the first semester of 1954 as well as overdrawings in the quotas from the first semester of 1954, shall be deducted from the quota for this semester. Likewise, all non-recurring items shall not be included in the computation of the exchange quotas for the second semester of 1954 quotas.

(*b*) to grant foreign exchange in payment of imports of such *raw materials* and *spare parts* as are essential to the current productive needs of "Old Producers" as defined in paragraph B–1 above except leaf tobacco, flour, and component parts for the assembly of passenger cars:

(*i*) the term "*raw materials*" is used in the broad sense to include any articles, materials, or supplies normally consumed in the processing or forming a part of the finished product.

(ii) The term "*spare parts*" represents those parts required for the normal maintenance and repair of the productive machinery.

(*iii*) the expression "*essential to the current productive needs*" shall be interpreted to preclude stockpilling in excess of normal business practice. In general, additional imports of raw materials should not be made when such imports combined with (*a*) existing inventories on hand (*b*) irrevocable orders pending shipment, and (*c*) raw material content of finished products exceed six months supply in relation to the rated productive capacity of the plant or capacity to consume such raw materials. In the case of spare parts a maximum supply equivalent to 10 per cent of the original value of the machinery may be used as a guide to a semestral requirement.

2. *Special Exclusions.*—Although certain commodities may appear to qualify as raw materials or spare parts, foreign exchange may not be granted to producers to import the following types without the specific authorization of the Central Bank:

(*a*) Such producers may not import commodities:

(*i*) for resale or distribution in the same form, such as commissary or incentive consumer goods;

(*ii*) for their exclusive and non-productive use, such as construction materials for factory and housing, office supplies, and passenger cars.

(*b*) No item included in the "Unclassified List" may be imported under this regulation.

(*c*) Care should be exercised in the granting of exchange to preclude the import of any commodity that is produced locally in adequate quantities and quality at reasonably competitive prices.

3. Those "Old Producers" granted foreign exchange quotas for the first time under this regugation shall be required to submit the appropriate Information Sheet (CB Forms Nos. 1 to 4) in quadruplicate accompanied by all required supporting documents specified in Regulation No. 1 to Circular No. 44.

4. Applications by "Old Producers" for foreign exchange to pay for the importation of *machinery and equipment* shall be filed with any Authorized Agent Bank, which shall make appropriate recommendation to the Monetary Board to grant or deny such applications.

D. *New Producers*—

Applications by "New Producers" for foreign exchange to pay for the importation of machinery, equipment, spare parts and raw materials shall be filed with any Authorized Agent Bank, which shall make appropriate recommendation to the Monetary Board to grant or deny said applications after it has satisfied itself that the following requisites have been met:

1. In the case of new enterprise that intends to manufacture products presently classified under the "Essential" categories, a demonstration must be shown that the landed dollar value of the finished product compared with the total amount of foreign exchange needed to manufacture same (including cost of machinery indicating the annual depreciation rate, spare parts, raw materials, technical know-how, patents, royalties, dividends, profits, interest, and the like) indicates potential dollar earnings or a reasonable opportunity for dollar saving;

2. In the case of new enterprise that intends to manufacture products presentlly included in the "non-essential" or "unclassified" lists, a demonstration must be made that the value of imported raw materials does not exceed 60 per cent of the prime cost (raw materials and productive labor) of the finished product, and/or show potential dollar earnings from exports;

3. That the raw materials proposed to be imported enter directly into the processing of the finished article in the plant or establishment of the producer, and are not for resale in the original form;

4. That the spare parts are for the machinery used or to be used by the applicant and are urgently needed for the operation of his plant or establishment, and that they are not for resales;

5. That the items proposed to be imported represent actual production requirements for the semester, and that there is no accumulation of inventories of said items beyond normal business practice in that industry;

6. That the documents submitted in support of the application are genuine and do not contain material omissions and/or misrepresentations; and

7. In addition to those required in Part I, article III, section 1, of Regulation 1 to Circular No. 44, the following documents shall be submitted by a new producer applying for foreign exchange to pay for imports:

(*a*) Organization and/or registration papers;

(*b*) Latest financial statements with detailed schedules showing the names, addresses and nationalities of stockholders, indicating their respective subscribed and paid-up capital;

(*c*) Statement of other sources of funds;

(*d*) Detailed description of the contemplated enterprise indicating site of plant or establishment, planned production for the first three years, actual or estimated annual power requirements of the plant, number of employees and laborers, and a description of the technical process involved in the manufacture of the product;

(*e*) Itemized statement of the dollar requirements for machinery, equipment, spare parts, and raw materials for the current year and the two ensuing years;

(*f*) Certified copy of income tax return if applicable; and

(*g*) Tax clearance.

E. *Penalties*—

1. Producers are warned that importations made contrary to any of the conditions set forth above shall be deemed sufficient grounds to prohibit the company or owner or stockholders from further participation in the privilege of utilizing forei[gn] exchange for the duration of [the] ge C[ircular]

F. *Miscellaneous.*—Author[ized Agent Banks] hereby instructed:

1. To make the followin[g] standing letters of credit [or] ments against shipping d[ocuments]

(*a*) in the n[ame] plier;

(*b*) in [accordance]

(*c*) [no] were [issued] *Circ[ular]* are[a]

2. To [limit] quota al[lotment] remittanc[es]

(*a*) An amount not exceeding $10,000 or ⅓ of the quota allocation, whichever is higher, may be remitted within the first two months of the semester;

(*b*) An amount not exceeding $20,000 or ⅔ of the quota allocation whichever is higher, may be remitted within the first four months of the semester; and

(*c*) Any balance of the utilized quota allocation may be remitted during the last two months of the semester.

III.—IMPORTERS

A. *Definition*—

An "importer" is any person, corporation, firm or association, other than government entities and producers as defined in this Regulation, applying for foreign exchange to pay for imports.

B. *Classification*—

Importers may be old or new in accordance with the following definitions:

1. *Old Importers.*—This term includes all persons, whether natural or juridical, who have records of importations in 1949 and who have established letters of credit and/or made remittances by M/T T/T, or D/D for payment of imported merchandise in 1952.

2. *New Importers.*—This term includes all Filipino and American merchants, whether natural or juridical, who qualified as new importers under Republic Act No. 650, or under the delegated authority of the Bankers' Committee, or by authority of the Monetary Board and who have opened letters of credit and/or made remittances by M/T, T/T, or D/D up to and including the first semester of 1954 in payment of imported merchandise.

3. *New Importer Applicants.*—This term shall include Filipino and American merchants, other than those classified as Old Importers and New Importers, who are actively engaged in the business of *retail* merchandising.

C. *Instructions to Agent Banks*—

[illegible]nks are hereby instructed [illegible]tions as enumerated below [illegible]cation of foreign exchange [illegible]emester of 1954:

[illegible]grant foreign exchange in [illegible] amount equivalent to [illegible]1954 including all [illegible]onetary Board and [illegible]he same period, [illegible]r, and the

[illegible]exchange [illegible]alent to [illegible]ing all [illegible]rd and [illegible] period, except importations of leaf tobacco, flour, and the special allocation for meat and cattle.

3. Any advance quota allocations for the second semester, 1954 which were approved by the Monetary Board during the first semester of 1954 as well as overdrawings in the quotas from the semester of 1954, shall be deducted from the quota for this semester. Likewise, all non-recurring items shall not be included in the computation of the exchange quotas for the second semester of 1954 quotas.

4. *New Importer Applicants.*—To grant applications for foreign exchange in payment of imports to 1954 New Importers after appropriate investigation has been made that the applicant has met the following conditions:

(*a*) He must be a Filipino or American citizen, in the case of a single proprietorship; or 60 per cent owned by either Filipino or American nationals in the case of a partnership or a corporation;

(*b*) He must be actively engaged in the retail merchandising business, maintaining a fixed place of business in accordance with standard commercial practice;

(*c*) He must have at least a total gross sales for the preceding semester of not less than ₱50,000. *Provided*, that utilization of these foreign exchange be confined to highly essential and essential items and for an amount equal to 20 per cent of the gross sales of the applicant during the preceding semester, or $10,000, whichever is lower.

Each applicant shall be required to submit all the papers and documents called for under Regulation No. 1 implementing Circular No. 44.

5. To grant foreign exchange for remittances for the payment of books for personal use and individual subscriptions to foreign magazines, periodicals, and pamphlets in amounts not exceeding $25 per applicant per calendar month, provided that the application is accompanied by published ads, advertising literature or letters from the publishers or distributors of the books or the publishers of the magazines, periodicals or pamphlets showing the cost or rate of subscription as the case may be.

6. To grant foreign exchange in an amount not exceeding $500 per applicant per semester to dentists and doctors for the purchase of dental and medical equipment for their exclusive use in the exercise of their profession provided that they are not for resale and said items are not available locally from local importers or dealers. The amounts granted shall be considered as non-recurring items.

7. To make the following amendments to outstanding letters of credit or M/T, T/T, D/D pay-

ments against shipping documents involving changes:

(*a*) in the name of the beneficiary or supplier;

(*b*) in country of origin;

(*c*) in the extension of expiry dates which were established in 1953 and thereafter under Circular No. 44 provided meritorious reasons are given which justifies the extension;

(*d*) in the commodities covered where switching has to be made from one commodity to another commodity under the same category or from a lower category to a higher category, but not vice versa. Excluded from this provision are exchange allocations established for—flour, *leaf tobacco*, drugs and medicines, corned beef, milk (HE items), books, X-ray films, and agricultural, industrial and mining machineries and parts thereof, and special allocation for meat and cattle. Exchange allocations for other commodities not mentioned in the preceding sentence may not be switched to exchange allocations for shoes, textiles, upper leather, corn starch and other starches, rubber heels, rubber soles, rubber sheets, and used clothing.

8. To allow the utilization of the individual quota allocations in full subject to the following remittance schedule:

(*a*) an amount not exceeding $10,000 or ⅓ of the quota allocation, whichever is higher, may be remitted within the first two months of the semester;

(*b*) an amount not exceeding $20,000 or ⅔ of the quota allocation whichever is higher, may be remitted within the first four months of the semester; and

(*c*) any balance of the utilized quota allocation may be remitted during the last two months of the semester.

The restrictions on remittances as stated above shall not apply to the utilization of quotas for "highly essential" items, machinery, and items covered by the Barter Trade Agreement with Japan.

IV.—REPORTING

A. Authorized Agent Banks shall submit to the Import-Export Office of the Central Bank one copy of every letter of credit opened and remittance made by M/T, T/T, or D/D in payment of imported merchandise during the day together with the covering CB-Form No. 7 (Revised—6-22-54) "List of L/C's opened" in quadruplicate which must be consecutively numbered, indicating whether it is regular quota or ex-quota, before the close of the following business day.

B. All the required supporting documents as enumerated in Regulation No. 1 implementing Circular No. 44 for each status of importer or producer shall be submitted and maintained on an annual basis, such as—certified income tax return for 1953, tax clearance for 1953, financial and operating statements for the year 1953 and their supporting schedules, etc.

C. Any material omission or misrepresentation in an application or in any required supporting papers and documents, shall be sufficient cause for the outright rejection of such application without prejudice to such other penalties that may be imposed or recommended by the Monetary Board in accordance with the provisions of Republic Acts Nos. 265 and 337 and of other pertinent laws.

D. Authorized Agent Banks who fail to meet the reporting schedule set forth in paragraph 1 above, may not continue to open letters of credit until such reports are on file with the Central Bank.

E. No item of import shall be released by the Bureau of Customs without the presentation of a release certificate issued by the Central Bank or any Authorized Agent Bank on CB-Form No. 5, (Revised—6-22-54).

F. Any provision of Circular No. 44 and all regulations and memoranda issued implementing same that is contrary to any provision of this regulation shall be deemed null and void and without effect.

G. This Regulation takes effect beginning July 1, 1954.

For the Monetary Board:

M. CUADERNO,

Approved by the Monetary
1954.

F. STA. ANA
Secre

APPOINTMENTS AND DESIGNATIONS

BY THE PRESIDENT OF THE PHILIPPINES

Ad Interim Appointments

June 1954

The Social Welfare Administrator, the Director of Animal Industry, Dr. Francisco O. Santos, the President of the Philippine Federation of Women's Club as Members of the Institute of Nutrition Board, June 14.

Leonides S. Virata and Jose Leido as Members of the Monetary Board of the Central Bank, June 15.

Tagakotta O. Sotto as Foreign Affairs Officer, Class II, June 17.

Estrella Abad Santos as Judge of the Municipal Court of Manila, June 19.

Pantaleon Pelayo as Judge, 11th Judicial District, Iloilo and Iloilo City, 4th Branch, June 21.

Melquiades Ilao as Judge, 9th Judicial District, Camarines Norte, June 23.

Mateo Alcasid as Judge, 10th Judicial District, Albay and Catanduanes, 2nd Branch, June 23.

Benjamin Estanol as Justice of the Peace of Pigcawayan, Cotabato, June 23.

Vicente I. Singian as Foreign Affairs Officer, Class II, June 24.

Juan J. Hormillosa as Foreign Affairs Officer, Class II, June 24.

Jose S. Estrada as Foreign Affairs Officer, Class II, June 24.

Alejandro Galang as Consul of the Republic of the Philippines, June 24.

Francisco Ortua as Justice of the Peace of Siruma, Camarines Sur, June 28.

Jose B. L. Reyes as Associate Justice of the Supreme Court, June 30.

[illegible]or M. Endencia as Presiding Justice of the [illegible] Appeals, June 30.

[illegible] Hernandez, Jr., as Secretary of Educa-

July 1945

[illegible] as Full-Time Member of the [illegible]s, J[illegible] 1.

[illegible]the MRR Board of

[illegible]fth Assistant Provin-

[illegible]y 1.

[illegible]e Peace of Luisiana,

[illegible]ary Justice of the

[illegible]1.

Designation by the President

Alejo Aquino as Acting Member of the Metropolitan Water District Board of Directors, July 1.

Rafael Roces, Sr., and Carlos Da Silva as Acting Members of the Board on National Pantheon, July 1.

Col. Osmundo Mondoñedo as Acting Member of the National Agricultural Council, July 2.

Diosdado Dalena as Justice of the Peace of Sta. Maria, Laguna, July 2.

Espiridion Frias as Justice of the Peace of Ebro, Borbon, Prosperidad, Bahbah, Aspitia, Los Arcos, Novele, and Rosario, Agusan, July 3.

Ambrosio Dollete as Judge, 5th Judicial District, Bataan, July 6.

Olegario Lastrilla as Judge, 13th Judicial District, Samar, 3rd Branch, July 6.

Ramon Nolasco as Judge, 14th Judicial District, Cebu, 3rd Branch, July 6.

Wenceslao Ortega as Judge, 16th Judicial District, Zamboanga del Norte, July 6.

Raul S. Manglapus as Acting Undersecretary of Foreign Affairs, July 6.

Agapito Braganza as Acting Undersecretary of Labor, July 6.

Lucas Lacson as Judge, 3rd Judicial District, Zambales, July 7.

Felixberto M. Serrano as Ambassador Extraordinary and Minister Plenipotentiary (Chief of Mission, Class I) of the Republic of the Philippines, July 7.

Manuel Nieto and Salvador P. Lopez as Envoys Extraordinary and Minister Plenipotentiary (Chief of Mission, Class III) of the Republic of the Philippines, July 7.

Mauro Calingo as Minister of Career of the Republic of the Philippines, July 7.

Rafael Roces and Jose Tiosejo as Acting Members of the Board of Directors of the National Development Company, July 9.

Alfredo M. Velayo as Acting Chairman and Alberto P. Reyes as Acting Member of the Board of Accountancy, July 9.

F. L. Gonzales as Acting Member of the Philippine Veterans Board, July 10.

Ner C. Reodica as Deputy Commissioner of the Securities and Exchange Commission, July 10.

Ernesto Sibal as Member of the Board of Regents of the University of the Philippines, July 10.

Ambrosio Padilla as Member of the Civil Service Board of Appeals, July 10.

Tomas G. de Castro as Minister of Career of the Republic of the Philippines, July 10.

Jose D. Ingles as Foreign Affairs Officer, Class I with the rank of Minister, July 10.

Mauro Mendez as Foreign Affairs Officer, Class I, July 10.

Juan M. Arreglado as Foreign Affairs Officer, Class I, July 10.

Narciso G. Reyes as Foreign Affairs Officer, Class II, July 10.

Simeon R. Roxas and Miss Carmen Buyson as Foreign Affairs Officers, Class II, July 10.

Rodolfo H. Severino, Leon T. Garcia, Alejandro D. Yango, and Mrs. Carmen C. Sexton as Foreign Affairs Officers, Class III, July 10.

Dr. Policronio R. de Venecia, Delfin Sian, Ramon U. Cataumber, and Leon M. Lazaga as Foreign Affairs Officers, Class IV and Vice Consuls of the Republic of the Philippines, July 10.

Manuel Cudiamat as Provincial Treasurer of La Union, July 12.

Nicetas Abenoja as City Attorney of Ormoc City, July 12.

Toribio P. Pedrosa as Assistant Provincial Fiscal of Leyte, July 12.

Emilio M. Asistores as Acting Deputy Administrator of the Civil Aeronautics Administration, July 12.

Dionisio Villaruz as Acting Provincial Assessor of Negros Occidental, July 12.

Raul S. Manglapus as Acting Secretary of Foreign Affairs, July 13.

Jose Valera as Acting Provincial Governor of Abra, July 13.

David Mirando as Justice of the Peace of Balatan, Camarines Sur, July 13.

Herman P. Neri as Member of the Board of Directors of the Price Stabilization Corporation, July 14.

Col. Pedro M. Cruz as Acting Member of the Board of Medical Examiners, July 14.

Ulpiano Sarmiento as Acting Chairman of the Board of Directors of the National Shipyards and Steel Corporation, July 15.

Agapito Marcelo as Provincial Assessor of Bulacan, July 15.

Dimapuro Casar as Justice of the Peace of Uato and Tugayo, Lanao, July 15.

Nicomedes Pinera as Justice of the Peace of Sapao, Surigao, July 17.

Lorenzo Plaza as Justice of the Peace of Cortes, Surigao, July 17.

Eliseo Somera as Justice of the Peace of Pilar, Surigao, July 17.

Felix Borabo as Acting Member of the Board of Directors of Metropolitan Water District, July 17.

Crescenciano Avila as Justice of the Peace of Culaba, Leyte, July 18.

Jesus O. Rebustillo as Justice of the Peace of Malilipot, Albay, July 25.

Honesto Gapud as Acting Member of the Board of Examiners for Mining Engineers, July 20.

Jaime Ferrer as Acting Chairman, and Celestino Cortes, Nicolas Capistrano, Jr., and Rafael Hilao as Acting Members of the Board of Directors of the National Resettlement and Rehabilitation Administration (NARRA), July 21.

Jose V. Coruña as Acting Mayor of Bacolod City, July 22.

HISTORICAL PAPERS AND DOCUMENTS

PRESIDENT RAMON MAGSAYSAY'S STATEMENT PRAISING AMBASSADOR CARLOS P. ROMULO AND MAJOR GENERAL JESUS VARGAS, June 29, 1954

THE implementation of the Treaty of Mutual Defense between the Philippines and the United States signifies that the Philippines will continue to be maintained and strengthened as a rampart of peace and freedom in Southeast Asia.

Now that a continuing council has been set up in accordance with the provisions of the treaty, we shall have an existing machinery to supervise the measures by which the defensive military cooperation between our two countries may be enhanced. In these days of grave peril in Southeast Asia, this is a development of great significance. It is only necessary to emphasize that the establishment of the continuing council, like the treaty itself, is a contribution to the maintenance of peace in our region and is not inspired by warlike or aggressive purposes.

The implementation of the treaty is one of the missions I entrusted to General Romulo as my special and personal envoy. He has reported to me every step of the negotiations that he undertook to accomplish his mission. Because I want it to be a rule of my administration that public officials who carry out their duties faithfully and ably should be given every credit for their service, I wish to publicly express my appreciation and that of our people to General Romulo for the competence with which he conducted the difficult negotiations.

When he asked me to send General Vargas to assist him on matters affecting the defense of the Philippines, I readily consented knowing that he will have in the chief of staff of our armed forces a soldier with the proper background to help him in his discussions with both the State Department and the Pentagon. General Vargas has reported to me how fruitful his conferences were with the secretary of defense, Mr. Wilson, Admiral Radford, General Ridgway, nd other members of the joint chiefs of staff. He had a of conferences with all those in the Pentagon who had to do with the defense problems of the Pacific. as decorated with the Legion of Merit and was re- y President Eisenhower at the White House are f the high regard in which our armed forces are he United States. I am sure that the result of the military conferences that General Vargas had with military authorities in Washington has brought per understanding of our national defense

problems on the part of our American allies and a better concept of the mutuality of interests between our two nations.

To all those who assisted and collaborated with General Romulo and General Vargas in this undertaking, I also wish to express the country's and my own appreciation. They have all done well.

SPEECH OF PRESIDENT RAMON MAGSAYSAY AT THE ARMED FORCES TESTIMONIAL PARADE AND REVIEW, CAMP MURPHY, SATURDAY, July 3, 1954

TO THE MEN OF THE ARMED FORCES:

FOR some years now we have been closely tied by the common bond of serving our nation, of securing its defense against attacks from within our borders, and against outside aggression. Throughout these years I have had no reason to regret the confidence I have placed in you. I have had every reason to be proud of your courage, loyalty, and devotion to duty.

In the earliest days of our relationship, there were two enemies for us to fight. One was the enemy within your own ranks, the unscrupulous and selfish member of the Armed Forces whose behaviour smeared the entire organization with disrepute. This enemy, I am happy to say, you quickly brought under control and gradually eliminated. You restored the good name of the Armed Forces of the Philippines. You regained the confidence of the citizens whom it is your sworn duty to defend and protect. In doing so, you have won a major battle in the war of our times.

The other enemy was the world-wide Communist conspiracy. Here in the Philippines, professional Communist agents were enjoying great success in a carefully laid plot to undermine the foundations of our Republic, to destroy our democratic institutions, and to make of Malacañang merely a branch office of the Kremlin. They were assisted in this plan by post-war conditions of destruction, misery, and corruption. They became sufficiently strong to rob, murder, and terrorize the majority of our people who refused to be taken in by their false promises. Your success in checking this attack upon the Republic and destroying the military strength of the aggressor is one [illegible] proudest pages in the history of the Armed Forces.

In the course of these years, you have engaged [illegible] munist enemy outside of our borders as well. R[illegible] to the call of our obligations as a member of the [illegible] Nations, you joined with the other armies of the [illegible] in repelling Communist aggression upon the R[illegible] Korea. On frozen battlefields far from home [illegible]

strated your nation's firm devotion to the cause of democracy and proved your right to stand shoulder to shoulder with the best figthing men of the world.

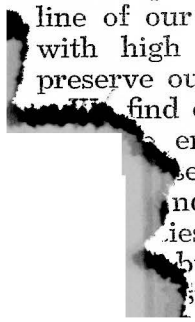
These are some of the things of which you have a right to be proud. These are some of your successes and accomplishments. But while you have won great victories over our enemies, you must not make the mistake of believing that because of such victories those enemies are completely and permanently defeated.

Within your own ranks, from time to time, you will still find those who are self-seeking or corrupt, those who place their own small ambitions above the interest of the nation. Such individuals are not a particular evil of the military. We find them—far too many of them—in every walk of our nation's civilian life, political and economic. They must be guarded against and weeded out, and, when guilty of crimes, they must be punished.

Though he has been badly beaten and weakened, the internal Communist enemy is also still with us, and still presents a threat to our security. Having failed in his military strategy, he will make every effort to infiltrate our national life and sabotage our progress. He will make every effort to plant seeds of dissension among us, dividing us as a people and destroying our relations with foreign friends and allies. Against this enemy our vigilance must be sharpened, because his new tactics are more difficult to detect and because our democratic freedoms are in themselves a protective cover for his treachery.

Unfortunately, it is not possible to report any improvement in the situation regarding external threats to the national security. On the contrary, the Communist program of subversion and imperialist aggression has crept even closer to our shores. This threat to our sovereignty and integrity as a nation is the most serious challenge we have yet been called upon to face. It is a total threat and it calls for total defense.

Our people must be united and alert. Our social, political, and economic institutions must be made to operate at the peak of their efficiency. You, holding the first line of our defense, must be prepared to face the enemy with high confidence, inspired by the determination to preserve our Republic and its institutions.



find comfort and strength in the fact that we do not enemy alone. Our defenses are re-inforced by es of all the free nations of the world, of such nd allies as the United States and the other ies. Our military strength is not designed for but, rather, for the preservation of peace. Our trength is not to be used to impose our will on

others but, rather, to defend their right—the right of all men—to live their lives in freedom and security. We, who have known the horrors of war, certainly do not seek any objectives which require the making of war. But we, who have known freedom, are determined to defend that freedom with our lives, if necessary.

In your traditions and in the history of your accomplishments, one thing stands out clearly. You are a citizens' army. Your interests are identical with the interests of your civilian brothers. It is not your function to impose upon our citizenry a way of life, but, rather, to serve as their instrument in protecting a way of life of their own choosing. Your loyalty is not to any one man, but to every Filipino, to every citizen of the Republic. Your loyalty is not to any potilitical party nor to any social or economic class. Your loyalty belongs, and must continue to belong, to the principles and ideals which make up our way of life.

By the grace of God and the will of our people, I speak to you today as your Commander-in-Chief. But in receiving your pledge of loyalty, I do so with the sober understanding that it is not given to me as an individual. It is a pledge entrusted to my custody as the representative of the people of this nation, selected and elevated to that position by democratic process. By the very nature of your identity as the armed force of a democracy, that is the only pledge you can give. As the chief of a democratic state, that is the only kind of pledge I can receive.

However, there is one pledge which we can and should make jointly. I call upon you to join me in pledging loyalty to the principles of freedom and justice which are the foundation of our national culture and our national existence. You and your brothers and your fathers have staked your lives to secure our existence as a free people. Let us serve notice to our enemies that they will have to take our lives before they can rob us of our freedom.

SPEECH OF THE PRESIDENT AT THE INSTALLATION OF OFFICERS OF THE JAYCEES, July 4, 1954

MR. PRESIDENT,
DISTINGUISHED JAYCEES,
MY COUNTRYMEN:

I AM happy to have for an audience on this a[illegible] of our Independence this distinguished [illegible] Filipinos. For you who are young, e[illegible] who are leaders among the young, indepen[illegible] a glory achieved but a challenge to face for ma[illegible] come.

I can almost hear you say: "That is right. Now that we have independence, what shall we do with it?"

This is what I would like to discuss with you this evening.

There are several things we can do with our independence. We can make it strong, we can make it economically real, we can make it politically mature. We have the years ahead to do these things soberly and thoroughly. But it seems to me that there is *one pressing thing* that we *must* do about our independence today. We must defend it.

Defend it from whom?

There was a time when the task of Philippine statesmen was not the defense of independence—but the winning of independence. The great historical names that we now venerate are those of the thinkers, the leaders, and the martyrs of a movement whose objective was clear—the political emancipation of our country. To achieve this objective, they had to fight oppression, colonialism, and misunderstanding by men from other lands.

Now these enemies have been conquered, and independence is ours. It is now our task to defend it.

We can not defend this independence by closing our eyes to the realities around and within our shores, out of fear of arousing the real assailant.

There is no mistaking who this assailant is. He is the Communist.

From the outside, the world of the Communist now threatens to encircle us. From the inside, the Communist has for years been up in arms against the sovereignty of our people.

The Communist threatens our very civilization—the substance to which our independence gives form. His objective is the destruction of our God and our civilization. In their place he seeks to establish a Godless dictatorship by all means available—by deceit, by infiltration, by open aggression. He is all over the earth, threatening the fundamental rights of man, destroying liberty wherever it is found, trampling on national independence in Europe, Asia, Africa, and America, seeking to rule the world.

The threat of Communist enslavement is, in other words, [illegible]otal and worldwide threat. It is for this reason that, [illegible]ur part, we have sought to strengthen the bonds of [illegible]ace with other free peoples courageously fighting and [illegible]ing this threat. Only recently, we have concluded [illegible]ements with the United States for the organization [illegible]council that will keep a constant check on our [illegible]rements, to help us maintain a maximum [illegible]edness for any eventuality. In principle, [illegible]n favor of any collective security arrangement [illegible]would strenghten our hand against this menace,

provided such an arrangement does not frustrate the legitimate aspirations to freedom of other Asian peoples.

It would be fatal for us to entertain the fear that such positive alliances might "provoke" the Communist. This fear is based on the suicidal belief that the Communist is merely a peaceful reformer, moved to violence only when vexed beyond patience.

That is not the Communist we know in this country. We know personally the armed Communist, who, without provocation, murders his own countrymen to achieve his ends. We know personally the Communist propagandist, who, without provocation, lies and rants to confuse his own people. We know personally the Communist infiltrator, who, without provocation, commits the subtle act of treason by worming his way into key positions in our government in order to disrupt it, and render it ripe for seizure.

Yes, the Communist that we know needs no provocation. He is already within our shores, fighting us with guns, lies, and deceit. And so, along with the strengthening of our external chain of defense, together with free countries, we must strengthen our internal defenses. Our gallant armed forces are routing the Communist armed attack. But now, it seems, the enemy would like to revitalize his revolution by turning to deceit and infiltration. Against this new and perhaps even more dangerous attack, we must alert all our people.

But it is not enough to alert our people. We must fortify them spiritually, physically, and mentally. We must confirm their faith in God, build up their confidence in the work-ability and superiority of the democratic process.

Ultimately then, the success of our internal defenses depends on the reaction of the common man. If he does not lose his faith, if he is not forced to look to other systems because of our failure to improve his lot, then our defenses are impregnable and our cause is won.

In the end, the real defender of our independence is th common man. We need only show him that it is wortl defending.

Let us show him that it is worth defending.

You have a splendid organization, with young, intelligent, and energetic members in every part of our country. Ask them to help the common man—to give him just wages, to recognize his basic rights, to treat him fairly always, to assist him in his climb to the level of the dignity of man.

For my part, on this day of independence, I [illegible] pledge to the people of our country that my [illegible] be devoted to the upliftment of the lot of our [illegible] and the confirming of his belief in the demo[illegible] can think of no better contribution to make [illegible] of our independence.

STATEMENT OF PRESIDENT MAGSAYSAY ON GENERAL ROMULO'S RETURN TO THE PHILIPPINES, July 22, 1954

GENERAL ROMULO, who came to Manila at my request, reported to me today on all the matters which he took up with the United States Government on my instructions.

There is unquestionably a reservoir of good will and friendship in the United States on the part of the administration and the American people for us. The difficulty is in securing attention to our problems in competition with the vast global demands on the U. S. Government, the exacting requirements of American national security and the pressure of foreign policy exigencies, as well as the manifold domestic questions facing an administration in a congressional election year.

It should be a matter of gratification for us that despite all these, we got preferential attention for all those matters that I asked General Romulo to take up in Washington. This is American support which I deeply appreciate and which I know our people acknowledge gratefully. I am conscious of the fact that such backing as our administration is getting in Washington also stems from our unrelenting fight for Democracy against Communism.

DECISIONS OF THE SUPREME COURT

[No. L-6087. July 14, 1954]

LUCIA MISE, petitioner and appellee, *vs.* MERCEDES RODRIGUEZ, claimant and appellant

WILLS; SUCCESSION; NATURAL CHILDREN; THEIR RIGHT TO SUCCEED.—"Although article 945 of the Civil Code * * * does not mention acknowledgment, such a requirement is understood, since the section under which such article comes is entitled 'Acknowledged Natural Children,' and deals with their right to succeed, and has nothing to do with the right of simple natural children who have not been acknowledged." (Puzon *vs.* Ortega, 55 Phil., 756, 759.)

APPEAL from a judgment of the Court of First Instance of Manila. Amparo, J.

The facts are stated in the opinion of the court.

Roman A. Cruz for claimant and appellant.
N. Pimentel, Jr. for petitioner and appellee.

JUGO, *J.:*

On September 7, 1935, the late Perfecto Gabriel executed his last will and testament, which was duly probated, in which he devised a certain parcel of land with the improvements thereon, described in Transfer Certificate of Title No. 5280, (now Transfer Certificate of Title No. 14316) located at Nos. 231, 233, and 235 Legarda Street, Sampaloc, Manila, to Soledad Rodriguez, Obdulia Rodriguez, and Lucia Mise, with a proviso that

"Es mi voluntad que, en caso de fallecimiento de cualquiera de mis legatarias Soledad, Obdulia y Lucia sin sucesión legítima, pase a las sobrevivientes la participación de la que falleciere antes en las fincas, objeto de legado, * * *."

Lucia Mise, relying on the above provision of the will, and alleging that Soledad and Obdulia died without legitimate succession, asked that the shares of Soledad and Obdulia be adjudicated to her so that she would become the sole owner of the above described property. Mercedes Rodriguez opposed said petition on the [illegible] she was a legitimate successor of Soledad [illegible] The whole property was adjudicated by the Court [illegible] Instance of Manila to Lucia Mise by virtue of the [illegible] provision. Mercedes appealed to the Court of Appe[illegible] which certified the case to this Court for the reason t[illegible] only a question of law was raised.

No question as to the validity and effic[illegible] above quoted provision of the will was raised [illegible] court, or in the Court of Appeals and is [illegible] this Court now. The only question presen[illegible]

Court by Mercedes is whether or not she is the legitimate successor of Soledad Rodriguez. Obdulia died without any successor. The claim of Mercedes is based on the admitted fact that she and Soledad Rodriguez were the natural daughters of Trinidad Rodriguez, both having had the possession and enjoyment of the status of natural children of Trinidad, without, however, having been duly acknowledged. Mercedes contends that, being the natural sister of Soledad, she is the legitimate and collateral successor of the latter.

Article 945 of the Civil Code provides that "In default of natural ascendants, natural and legitimate children shall be succeeded by their natural brothers and sisters in accordance with the rules established for legitimate brothers and sisters."

In the case of Puzon *vs.* Ortega (55 Phil., 756, 759), this Court held that:

"* * *. Although article 945 of the Civil Code, * * *, does not mention acknowledgment, such a requirement is understood, since the section under which such article comes is entitled, 'Acknowledged Natural Children,' and deals with their right to succeed, and has nothing to do with the right of simple natural children who have not been acknowledged."

It is clear, therefore, that Mercedes Rodriguez is not a legitimate successor of Soledad Rodriguez, and the testator could not have meant to include her in the phrase "sucesión legítima" in his will.

As already stated, no question has been raised by any party during the course of these proceedings in the Court of First Instance of Manila, in the Court of Appeals, and in this Court, now, as to the validity and efficacy of the above clause of the will.

In view of the foregoing, the order appealed from is affirmed without pronouncement as to costs.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Bautista Angelo, Labrador, Concepcion, and *JBL Reyes, JJ.*, concur.

Order affirmed.

[No. L-7325. July 16, 1954]

...RIQUEZ, ET AL., petitioners, *vs.* HONORABLE ALE...O PANLILIO, in his capacity as the presiding Judge ...ranch A, Court of First Instance of Manila; the SHERIFF OF MANILA; DEE C. CHUAN CO., INC. and STANDARD VACUUM OIL CO., respondents.

...DOMAIN; SUSPENSION OF EJECTMENT PROCEEDINGS, ...ROPER; PURPOSE OF COMMONWEALTH ACT NO. 538.— ...ealth Act No. 538 contemplates the expropriation of ...ally occupied, where said occupancy is known and ...by the owner under an agreement, express or implied,

of tenancy, and where the tenants and occupants are observing the terms of the agreement by paying the rentals agreed upon, or, a reasonable amount ascertained by the court for the use and occupation of the premises. The purpose of the law is to aid and benefit the lawful occupants and tenants, by making their occupancy permanent and giving them an opportunity to become owners of their holdings.

2. ID.; ID.; ID.; OCCUPANTS WHO CAN NOT INVOKE THE LAW.—Where petitioners entered the land in question without the knowledge and consent of the owner and lessee thereof, the relationship of landlord and tenant has not been established. Hence, they can not invoke the benefits of Commonwealth Act No. 538.

ORIGINAL ACTION in the Supreme Court. Certiorari with Preliminary Injunction.

The facts are stated in the opinion of the court.

Castano, Ampil, & Pronove for petitioner.

Ross, Selph, Carrascoso & Jauda for respondent Standard-Vacuum Oil Company.

Quisumbing, Sycip, Quisumbing & Salazar for other respondents.

MONTEMAYOR, *J.:*

This is a petition for certiorari with preliminary injunction. From the allegations of said petition and its annexes as well as of the answer filed by respondents, we gather the following:

Respondent Dee C. Chuan Co. (to be later referred to as Chuan Co.) is the owner of quite a large parcel of land situated in the City of Manila and adjoining the Juan Luna Sub-division and the North Bay Boulevard. A portion of the same of about 1,000 square meters was leased to respondent Standard Vacuum Oil Co. (to be later referred to as Oil Co.). Something prior to 1947, without the knowledge and consent of Chuan Co (owner) and the Oil Co. (lessee), a number of people including the petitioners entered the parcel, particularly that portion under lease, and erected thereon temporary houses (barong-barong), and thereafter refused to leave the same despite repeated demands made upon them by the owner and lessee. The oil company filed a suit in ejectment in the Municipal Court of Manila against the petitioners and obtained a favorable judgment ordering petitioners to vacate the portion occupied by them and denying their counterclaim. Petitioners as defendants appealed to the Court of First Instance of Manila which rendered judgment against them on December 27, 1949. For purposes of reference particularly as to the facts of the case, we are reproducing said decision, to wit:

"This is an ejectment case appealed from the Municipal [illegible] The lower court in its decision ordered the defendants to v[illegible] premises in question and denied defendants' counter-cla[illegible] the appeal of the defendants to this Court. While [illegible] pending trial, Dee C. Chuan prays the defendants [illegible]

the premises and to pay jointly and severally a monthly rental of ₱90 from May 5, 1947 to October 5, 1949. Subsequently, counsel for the defendants filed a motion asking for the suspension of the trial of the case on the ground that the government was negotiating for the purchase of the land in question from the plaintiff- intervenor, Dee C. Chuan & Sons, Inc. Because the hearing of the case had been postponed already several times on the same ground, without any positive results having come out from said supposed negotiations, the petition was denied, and trial was then commenced. After the plaintiff has presented their evidence, counsel for the defendants asked for postponement alleging, as their reason, that not all the defendants were present in Court. To give the defendants their day in court, the case was then postponed to an agreed date among the parties. But on the said date, counsel for the defendants failed to appear on the unverified ground that he was indisposed. Further postponement of the case was objected to by the other parties, and case was then submitted for decision .

"It appears that the plaintiff is the lessee of a parcel of land, as evidenced by a contract of lease (Exhibit "A") between *plaintiff* and the owner, who is the plaintiff-intervenor herein; that the defendants, prior to February, 1947, without the knowledge and consent of the owner or plaintiff-intervenor, illegally entered and occupied the premises in question and erected barong-barong therein; that, in spite of repeated demands of the plaintiff-intervenor, as well as the plaintiff (Exhibits B, B–1, B–2, C, C–1 to C–5), the defendants refused to vacate the property.

"WHEREFORE, in view of the foregoing, judgment is hereby rendered ordering all the defendants to vacate the premises in question, and each of them to pay the plaintiff-intervenor a monthly rental of ₱5 from May 1947 to October 1949. Defendants are further ordered to pay the costs in both instances.

"So ordered.

The judgment above reproduced apparently became final and executory. Why it was not then executed, the record does not show. In July, 1950, the Republic of the Philippines instituted expropriations proceedings, Civil Case No. 11525, concerning a portion of the parcel belonging to Chuan Co., including that portion leased to the Oil Company, under the provisions of Commonwealth Act No. 538. By reason of said expropriation proceedings, the Court of First Instance of Manila, deciding the ejectment case against petitioners, suspended execution of its judgment by order dated April 17, 1951. Early in 1953, Chuan Co. moved to lift the order staying execution. We quote the order dated February 21, 1953 granting the motion:

"After a careful consideration of the grounds advanced by Counsel for Intervenor Dee C. Chuan & Sons, Inc., in support of the motion to lift order staying execution, the Court has reached the conclusion that said motion is well taken and meritorious, and hereby grants same.

"The defendants, not being bona-fide tenants or occupants of the question, and having failed, on the other hand, to pay to ner, or to deposit in Court, the current reasonable rental they illegally occupy, can not avail themselves of the mmonwealth Act No. 538.

"Accordingly, the Order of April 17, 1951, suspending the execution of the Judgment rendered in the case, is hereby lifted and set aside.

"So ordered.

Manila, Philippines, February 21, 1953.

(Sgd.) ALEJANDRO J. PANLILIO
Judge"

A copy of said order was duly served on counsel for the defendants in said Civil Case No. 5654 (now petitioners herein). It was only on November 23, 1953, that defendants-petitioners filed a motion for reconsideration of the order of February 21, 1953, which was denied by order dated November 28, 1953. Claiming that in issuing the orders of February 21, 1953 and November 28, 1953, the trial court acted with grave abuse of discretion, amounting to excess of jurisdiction, petitioners have filed the present petition for certiorari with preliminary injunction.

We are reproducing section 1 of Commonwealth Act No. 538 by virtue of which the expropriation proceedings, as already stated, was initiated by the Government.

"SEC. 1. When the Government seeks to acquire, through purchase or expropriation proceedings, lands belonging to any estate or chaplaincy (capellanía), any action for ejectment against the tenants occupying said lands shall be automatically suspended, for such time as may be required by the expropriation proceedings or the necessary negotiations for the purchase of the lands, in which latter case, the period of suspension shall not exceed one year.

"To avail himself of the benefits of the suspension, the tenant shall pay to the landowner the current rents as they become due or deposit the same with the court where the action for ejectment has been instituted."

We agree with the trial court and the herein respondents that petitioners are in no position to invoke the benefits of Commonwealth Act No. 538, particularly section 1 thereof. As found by the trial court in the ejectment case, they are not bona-fide occupants or tenants because they entered the land without the knowledge and consent of the owner and lessee thereof. The relationship of landlord and tenant has not been established; on the contrary, as soon as their illegal occupation of the land was noted the owner and lessee made demands upon them to vacate the premises, which demands were ignored. Petitioners have not paid anything for their occupation. Even after judgment was rendered by the Court of First Instance against them ordering them to vacate the land illegally occupied by them and ordering them to pay a reasonable amount for their occupation, fixed by the Court, up to this time they have paid nothing. Commonwealth Act No. 538 contemplates the expropriation of lands lawfully occupied, where said occupancy is known and permitted by owner under an agreement, express or implied, of te[illegible] and where the tenants and occupants are observi[illegible]

terms of the agreement by paying the rentals agreed upon, or, a reasonable amount ascertained by the court for the use and occupation of the premises. The purpose of the law is to aid and benefit the lawful occupants and tenants, by making their occupancy permanent and giving them an opportunity to become owners of their holdings. This is not the case with respect to petitioners.

Petitioners annexed to their petition a copy of an alleged agreement (Exhibit "E") between Chuan Co.; the Oil Co., and the Rural Progress Administration to the effect that the land subject of expropriation would be leased to the owners of the houses standing thereon on a monthly rental not to exceed 1 per cent of the assessed value of the land for the current year. Respondents in their answer explained that this agreement was made the basis of the motion for dismissal of the expropriation case, resulting in the dismissal of the same. However, with the abolition of the Rural Progress Administration and the taking over of its functions by the Bureau of Lands, the latter upon the instigation of the petitioners themselves, impugned the validity of the agreement, thus resulting in the lifting of the order of dismissal in the expropriation case. Moreover, the agreement itself excludes from its operation a portion of about 900 square meters which is apparently the portion involved in the ejectment (now occupied by the petitioners), the agreement providing for the removal from said portion of the houses and other improvements made by the petitioners.

In conclusion, we find that the respondent court did not commit any abuse of discretion, much less did exceed its jurisdiction in issuing its order of February 21, 1953 and in denying the motion for its reconsideration. The present petition for certiorari with preliminary injunction is hereby denied, with costs against petitioners. The writ of preliminary injunction heretofore, issued, is hereby dissolved.

Parás, C. J., Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista, Angelo, Labrador, Concepcion, and JBL Reyes, JJ., concur.

Petition denied.

[No. L-6294. June 28, 1954]

In the matter of the adoption of the minor MARCIAL ELEUTERIO RESABA. LUIS SANTOS-YÑIGO and LIGIA MIGUEL DE SANTOS-YÑIGO, petitioners and appellees, *vs.* REPUB-

were borne subsequent to that agreement.

1. ADOPTION, PURPOSE OF; PERSONS DISQUALIFIED TO ADOPT.—The purpose of adoption is to afford to persons who have no child of their own the consolation of having one by creating, through al fiction, the relation of paternity and filiation where none ts by blood relationship. This purpose rejects the idea tion by persons who have children of their own, for,

otherwise, conflicts, friction, and differences may arise resulting from the infiltration of foreign element into a family which already counts with children upon whom the parents can shower their paternal love and affection.

2. ID.; ADOPTION AGREEMENT EXECUTED BEFORE THE NEW CIVIL CODE TOOK EFFECT; ADOPTION MADE THROUGH COURT, THE ONLY VALID ADOPTION IN THIS JURISDICTION.—While the adoption agreement was executed at a time when the law applicable to adoption is Rule 100 of the Rules of Court, which does not prohibit persons who have legitimate children from adopting, such agreement can not have the effect of establishing the relation of paternity and filiation by fiction of law without the sanction of court. The only valid adoption in this jurisdiction is that one made through court, or in pursuance of the procedure laid down by the rule.

3. COURTS; THEIR DUTY.—The duty of the courts is to interpret and apply the law as they see it in accordance with sound rules of statutory construction.

APPEAL from a judgment of the Court of First Instance of Zamboanga. Villalobos, J.

The facts are stated in the opinion of the court.

Solicitor General Juan R. Liwag and *Solicitor Federico V. Sian* for respondent and appellant.

Abelardo S. Fernandez for petitioners and appellees.

BAUTISTA ANGELO, *J.:*

On June 24, 1952, a petition was filed in the Court of First Instance of Zamboanga by Luis Santos-Yñigo and his wife for the adoption of a minor named Marcial Eleuterio Resaba. It is alleged that the legitimate parents of said minor have given their consent to the adoption in a document which was duly signed by them on March 20, 1950, and that since petitioners had reared and cared for the minor as if he were their own. It is likewise alleged that petitioners are financially and morally able to bring up and educate the minor.

By order of the court, copy of the petition was served on the Solicitor General who, in due time, filed a written opposition on the ground that petitioners have two legitimate children, a boy and a girl, who are still minors, and as such they are disqualified to adopt under the provisions of the new Civil Code.

The court granted the petition holding that, while petitioners have two legitimate children of their own, yet said children were born after the agreement for adoption was executed by petitioners and the parents of the minor. The court found that said agreement was executed before the new Civil Code went into effect and while the petition may not be granted under this new Code, it may be sanctioned under the old because it contains no provision which prohibits adoption in the form and manner agreed upon by the parties. From this decision, the Solicitor General took the present appeal.

The errors assigned by the Solicitor General are:

"I

"The lower court erred in granting the petition to adopt in violation of the provisions of paragraph 1, article 335, new civil code.

"II

"The lower court erred in giving Exhibit "A", the agreement to adopt, a binding effect."

There is merit in the contention that the petition should not be granted in view of the prohibition contained in article 335, paragraph 1, of the new Civil Code. This article provides that persons who have legitimate children cannot adopt, and there is no doubt about its application because the petition was filed on June 24, 1952 and at that time petitioners had two legitimate children, one a boy born on November 12, 1950 and the other, a girl born on April 13, 1952. This case therefore comes squarely within the prohibition. This prohibition is founded on sound moral grounds. The purpose of adoption is to afford to persons who have no child of their own the consolation of having one by creating, through legal fiction, the relation of paternity and filiation where none exists by blood relationship. This purpose rejects the idea of adoption by persons who have children of their own, for, otherwise, conflicts, friction, and differences may arise resulting from the infiltration of foreign element into a family which already counts with children upon whom the parents can shower their paternal love and affection (2 Manresa, 6th ed., 108–109). This moral consideration must have influenced the framers of the new Civil Code when they reiterated therein this salutary provision.

But, it is contended, this prohibition in the new Civil Code cannot have application to the present case because, to do so, as it is now attempted, would impair the acquired right of petitioners over the adopted child in violation of the transitory provisions of article 2252 of said Code. It is pointed out that petitioners reared and took care of the child since February 24, 1950, and on March 20, 1950, they and the parents of the child executed the adoption agreement in accordance with the Rules of Court, and since these rules do not forbid adoption to persons who have legitimate children, that agreement shall be given full effect in the same manner as any other contract which is not contrary to law, morals and public order.

We find no merit in this contention. While the adoption agreement was executed at a time when the law applicable to adoption is Rule 100 of the Rules of Court and that rule does not prohibit persons who have legitimate children from adopting, we cannot agree to the proposition that the agreement has the effect of establishing the relation of paternity and filiation by fiction of law without the intervention of court. The reason is simple. Rule 100 has

taken the place of Chapter XLI of the Code of Civil Procedure (sections 765–772, inclusive), which in turn replaced the provisions of the Spanish Civil Code on adoption. (Articles 175–180.) As was stated in one case, said chapter of the Code of Civil Procedure "appears to be a complete enactment on the subject of adoption, and may thus be regarded as the expression of the whole law thereof. So viewed, that chapter must be deemed to have repealed the provisions of the Civil Code on the matter." (*In re* adoption of Emiliano Guzman, 73 Phil., 51.) Now, said rule expressly provides that a person desiring to adopt a minor *shall* present a petition to the court of first instance of the province where he resides (section 1). This means that the only valid adoption in this jurisdiction is that one made through court, or in pursuance of the procedure laid down by the rule, which shows that the agreement under consideration can not have the effect of adoption as now pretended by petitioners.

Some members of the Court have advanced the opinion that, notwithstanding the enactment of the Code of Civil Procedure or the adoption of the present Rules of Court concerning adoption, those provisions of the Spanish Civil Code that are substantive in nature cannot be considered as having been impliedly repealed, such as the one providing that a person who has a legitimate child is prohibited to adopt (article 74). But the majority is of the opinion that the repeal is complete as declared by this Court in the case of *In re* adoption of Emiliano Guzman, *supra*. At any rate, this matter is not now of any consequence considering the fact that when the adoption agreement was executed the petitioners had not yet any legitimate child. Their children were born subsequent to that agreement.

We are sympathetic to the plea of equity of counsel considering the fact that petitioners had taken custody of the child and had reared and educated him as their own much prior to the approval of the new Civil Code and that all this was done with the consent of the natural parents to promote the welfare and happiness of the child, but the inexonerable mandate of the law forbids us from adopting a different course of action. Our duty is to interpret and apply the law as we see it in accordance with sound rules of statutory construction.

The order appealed from is set aside, without pronouncement as to costs.

Parás, C. J., Pablo, Padilla, Montemayor, Reyes, Jugo, Labrador, and *Concepcion, JJ.*, concur.

Bengzon, J., did not take part.

Appealed order set aside.

[No. L-6672. Junio 29, 1954]

BEN L. CHUY, demandante y apelado, *contra* PHILIPPINE AMERICAN LIFE INSURANCE COMPANY, demandada y apelante.

1. LEY DE SEGURO; SEGUROS DE VIDA; LA CERTIFICACIÓN DE MÉDICOS DE LA COMPAÑÍA ASEGURADORA PREVALECE CONTRA LA DECLARACIÓN NO CORROBORADA DE OTRO MÉDICO QUE NO ES DE LA COMPAÑÍA.—Después de examen físico por médicos de la compañía aseguradora, se expidieron a Dee Se pólizas de seguro de vida. Las primas correspondientes fueron pagadas debidamente. Después de un año, Dee Se falleció de cáncer. Su beneficiario reclamó el pago del importe de las pólizas. Después de siete meses de trámite, la casa aseguradora le envió una carta dándole cuenta de que rescindía los contratos de seguro, y se negaba a pagar el importe de las pólizas y le envió dos cheques que venían a constituir la restitución de las primas pagadas con sus intereses. La negativa de la casa aseguradora a pagar el importe de las pólizas se fundaba en la declaración de otro médico que no era de la compañía aseguradora, de que Dee Se, bajo el nombre de Jose Dy, había sido tratado por aquél por estar enformo de cáncer por mas de tres años de su muerte. *Se declara:* Que las opiniones de los doctores de la casa aseguradora son de más peso que la declaración no corroborada de otro médico que no es de dicha compañía. Los médicos de las casas aseguradoras son los que debían tener interés en saber el verdadero estado de salud del solicitante, y si expidieron certificados de buena salud será porque estaban convencidos de la verdad de lo que certificaban. No hay el menor indicio de que ellos hayan obrado de mala fe. No existe en autos ninguna prueba de que el asegurado haya engañado a la casa aseguradora haciendo creer que él gozaba de buena salud cuando en realidad estaba enfermo de cáncer.

2. ABOGADOS; HONORARIOS; SENTENCIA POR HONORARIOS CONTRA LA PARTE QUE PERDIÓ EL ASUNTO; LA MANIFIESTA Y EVIDENTE MALA FE, DEBE PROBARSE.—Se reclama también contra la casa aseguradora honorarios de abogado que asciende a ₱10,000. *Se declara:* "In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except: * * * (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim" (Art. 2208, Cód. Civ. de Filipinas). La casa aseguradora no obró con manifiesta y evidente mala fe al no pagar el importe de la póliza. El trámite de siete meses demuestra la precaución que ha tenido en cerciorarse de si Dee Se era el mismo Jose Dy que había sido tratado por el médico arriba mencionado. Teniendo a la vista la información de dicho médico, cualquiera que estuviese en lugar de la casa aseguradora hubiera hecho lo mismo. Si después de una vista larga en que declararon varios doctores, el Juzgado ha llegado a la conclusión de que Dee Se no era el mismo Jose Dy, no se debe deducir necesariamente que la demandada ha obrado con abierta y evidente mala fe.

APELACIÓN contra la sentencia del Juzgado de Primera Instancia de Pangasinan. De Guzman, *M.*

Los hechos aparecen relatados en la decisión del Tribunal.

J. A. Wolfson and *Manuel Y. Macias* por el demandado y apelante.

Primicias, Abad, Mencias & Castillo por el demandante y apelado.

PABLO, *M.:*

Ben L. Chuy presentó una demanda contra la Philippine American Life Insurance Company (que se denominará PHILAMLIFE en el curso de esta decisión) en el *Juzgado* de Primera Instancia de Pangasinán, causa No. 12033, pidiendo que se condenase a la demandada a pagarle la suma de ₱46,008.75 con su interés legal desde el 22 de junio de 1951 hasta su completo pago, más la cantidad de ₱10,000 en concepto de daños. También se presentó otra demanda por Ben L. Chuy y Lee Sin contra la Lincoln National Life Insurance Company, causa No. 12034, en el mismo juzgado, reclamando el pago de igual cantidad con igual causa de acción.

A petición de ambas partes, las dos causas se vieron conjuntamente, sometiendo un convenio de hechos además de presentar otras pruebas. Después de considerar las pruebas presentadas, el Juzgado dictó sentencia concediendo la reclamación de los demandantes. Las dos compañías aseguradoras apelaron; pero antes de la aprobación del expediente de apelación, la Lincoln National Life Insurance Company, considerando tal vez inútil todo esfuerzo, pagó a los demandantes la cantidad de ₱50,000, abandonando la apelación. Por eso solamente se decidirá por este Tribunal la apelación de la Philamlife.

Eutiquiano P. Nava, un agente asegurador de la Lincoln National Life Insurance Company, consiguió convencer a Dee Se para asegurarse en ₱25,000; los doctores G. Oreta-Dizon y Godofredo A. Antonio le examinaron y expidieron el certificado médico correspondiente, que fué aprobado por el director médico de la Lincoln National Life Insurance Company. La solicitud de Dee Se fué aprobada y la póliza No. 812 254 por la suma de ₱25,000 se expidió en 8 de mayo de 1950; otra póliza No. 812 411 por igual cantidad se expidió a Dee Se en 10 de junio de 1950 después de cumplidas todas las formalidales indispensables.

Paula Dolores Sendaydiego, agente de la Philamlife, consiguió también convencer a Dee Se de que se asegurase en su compañía en la suma de ₱25,000. El Dr. Braulio M. Venecia examinó a Dee Se y su certificado médico fué aprobado por recomendación del doctor lá oficina central. En 2 de mayo de 1950 se expi Dee Se la póliza No. 97310 por la suma de ₱25,000

medio de la agente Paula Dolores Sendaydiego, Dee Se otra vez solicitó otra póliza por la suma de ₱25,000. El Dr. Ricardo B. Villamil le examinó y expidió el certificado correspondiente que fué aprobado por el Dr. Valenzuela, director médico de la Philamlife. Se aprobó la solicitud y se expidió a Dee Se otra póliza No. 101840 por la suma de ₱25,000 en 18 de julio de 1950. Las primas de las cuatro pólizas fueron pagadas debidamente.

En 22 de junio de 1951 Dee Se falleció de cáncer en la región naso-faríngea en el Hospital Provincial de Pangasinán, situado en la ciudad de Dagupan; su beneficiario, que es el demandante en esta causa, reclamó el pago del importe de las dos pólizas. Después de siete meses de trámite, la demandada, con fecha 24 de enero de 1952, le envió una carta dándole cuenta de que rescindía los dos contratos de seguro; se negaba a pagar el importe de las dos pólizas y le envió dos cheques, uno por ₱1,723.58 y otro de ₱2,570.90 contra el Bank of America, cantidades que venían a constituir la restitución de las primas pagadas, con sus intereses.

La demandada, en apelación, alega que el juzgado erró: (1) al declarar que José Dy, el paciente del Dr. Chikiamco, no era el asegurado Dee Se; (2) al declarar que Dee Se gozaba de buena salud al tiempo de solicitar su seguro y que no había hecho ninguna manifestación falsa en su solicitud de seguro; (3) al no declarar que dichas dos pólizas de seguro eran nulas y de ningún valor; y (4) al conceder al demandante honorarios de abogado.

La demandada contiende que Dee Se, bajo el nombre de José Dy, había sido tratado por el Dr. Paterno S. Chikiamco por estar enfermo de cáncer desde el 19 de abril de 1948 hasta el 20 de enero de 1951, fundándose en la declaración del mismo doctor, el cual declaró así:

"I think I have a clear memory of his feature because—except when I was away for six months in the States in 1949—most of the treatment was done by me although some of the records are jotted down by my assistant." (Exhibit "17", page 23.)

"I remember very well that he looks the same as the patient by the name of Jose Dy." (Exhibit "17", page 24.)

¿Es suficiente la declaración no corroborada del Dr. Chikiamco para concluir que el asegurado Dee Se fué su paciente José Dy?

Este testimonio del Dr. Chikiamco es incompatible con el de varios doctores. El Dr. Braulio M. de Venecia, médico de la Philamlife, asegura que al tiempo en que examinó, Dee Se gozaba de buena salud; que le había conocido por unos dos años porque era su vecino y que trabajaba en una tableria; que al tiempo en que le llamó examinarle, Dee Se acababa de venir de su trabajo tableria, un trabajo árduo, y estaba aún sudando él le examinó; si Dee Se—asegura el Dr. de Ve-

necia—hubiera estado sufriendo de cáncer y había estado bajo un tratamiento médico por más de tres años, no habría podido afrontar los rigores del trabajo en una tablería.

Dee Se había sido examinado, además del Dr. de Venecia, por el Dr. Villamil de la Philamlife y los doctores Oreta-Dizon y Godofredo A. Antonio de la Lincoln National Life Insurance Company y los certificados médicos que ellos expidieron fueron aprobados por los directores médicos de las dos compañías demandadas.

El Dr. Amado Tan Lee declaró que había tratado a Dee Se en 28 de diciembre de 1950 y enviádole al Dr. Sevilla en 13 de febrero de 1951. (Exhibit E.)

El Dr. Manuel D. Peñas declaró que en 18 de febrero de 1951 había hecho un exámen histopatológico de dos especimenes sacados de la nasofaringe de Dee Se por recomendación del Dr. Sevilla.

El Dr. Carlos L. Sevilla declaró que había tratado por primera vez a Dee Se en 13 de febrero de 1951 por recomendación del Dr. Amado Tan Lee. Creyendo que padecía de cáncer, le envió al Dr. Valencia en la misma fecha (13 de febrero de 1951) para que se le sometiera a rayos X; dos días después él sacó especimenes de la nasofaringe para ser examinados por el Dr. Peñas, quien hizo constar en su informe que halló "Granulation tissue with Subacute and Chronic Inflammation (non-specific)."

Sí el Dr. Sevilla fué el que envió a Dee Se al Dr. Chikiamco en 1951, entonces debía ser otro y diferente el paciente a quien el Dr. Chikiamco habiá estado tratando con el nombre de José Dy desde el 19 de abril de 1948 hasta el 20 de enero de 1951. Si Dee Se y el Dr. Chikiamco eran ya antiguos conocidos, ¿qué necesidad tenía Dee Se de una recomendación del Dr. Sevilla? Esta recomendación llevada por Dee Se al Dr. Chikiamco nos convence que Dee Se era el nuevo paciente y no el antiguo: que Dee Se y José Dy eran dos distintas personas.

Cuando acudió a los Drs. Lee y Sevilla y enviado al Dr. Chikiamco, Dee Se ya estaba asegurado. Si él solicitó el seguro para medrar o favorecer a sus beneficiarios haciendo creer que gozaba de buena salud cuando en realidad ya padecía de cáncer por tres años, ¿por qué entregó al Dr. Chikiamco la recomendación (Exhibit 2) del Dr. Sevilla? ¿Para que se descubriese más tarde su impostura? Eso es contrario al sentido común. Debía de haber destruido la recomendación y proponerse no ver ya al Dr. Chikiamco.

El tratamiento de José Dy de cerca de tre[illegible] se había hecho exclusivamente por el Dr. Chi[illegible] que había estado fuera de Filipinas por seis [illegible] Dra. Carmen Chikiamco, de la misma clíni[illegible]

paciente en lugar de aquél. Es extraño que el testimonio de ella—que hubiera sido una excelente corroboración—no se haya presentado ante el juzgado sin explicar la razón.

El Dr. Chikiamco, según él, fué honrado con un *lauriat* por José Dy, su paciente, en 26 de diciembre de 1950; pero existe prueba en autos de que Dee Se estaba en Dagupan en dicho día y salió para Manila el 27 después de la fiesta de Dagupan.

La declaración del Dr. Benigno Parayno, médico residente del Hospital Provincial de Pangasinán, de que la enfermedad de Dee Se, (cáncer en la región nasofaringea) debía haber existido entre cuatro y seis meses antes de su muerte en 22 de junio de 1951 apoya las opiniones de los cuatro doctores de las casas aseguradoras.

Las opiniones de estos cuatro doctores, las de dos directores médicos de las mismas casas de seguros, las de los Drs. Lee, Sevilla, Peñas y Parayno, son de más peso, a nuestro juicio, que la declaración no corroborada del Dr. Chikiamco.

Los cuatro médicos de las casas aseguradoras son los que debían tener interés en saber el verdadero estado de salud del solicitante, y si expidieron certificados de buena salud será porque estaban convencidos de la verdad de lo que certificaban. No hay el menor indicio de que ellos hayan obrado de mala fe. No existe en autos ninguna prueba de que Dee Se haya engañado a las casas aseguradoras haciendo creer que él gozaba de buena salud cuando en realidad estaba enfermo de cáncer. La mala fe debe probarse.

Creemos que el juzgado inferior no erró al concluir que Dee Se y José Dy no eran una misma persona y que Dee Se gozaba de buena salud al solicitar su seguro. Como no existe prueba de que Dee Se había empleado fraude y engaño para obtener las dos pólizas de seguro, fuerza es concluir que el juez *a quo* no cometió el tercer error atribuido a él.

En cuanto al cuarto error, el nuevo Código Civil dispone que "In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except: * * * (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;" (Article 2208, Código Civil de Filipinas.)

En el caso presente, creemos que la demandada no bró con manifiesta y evidente mala fe al no pagar el e las dos pólizas. El trámite de siete meses precaución que ha tenido en cerciorarse de a el mismo José Dy que había sido tratado Chikiamco por cerca de tres años. Teniendo

a la vista la información del Dr. Chikiamco, cualquiera que estuviese en lugar de la Philamlife hubiera hecho lo mismo. Si, después de una vista larga en que declararon varios doctores, el Juzgado ha llegado a la conclusión de que Dee Se no era el mismo José Dy, paciente por tres años del Dr. Chikiamco, no se debe deducir necesariamente que la demandada ha obrado con abierta y evidente mala fe. Creemos que la decisión del tribunal inferior, condenando a la demandada a pagar ₱10,000 para honorarios de abogado, no está justificada: el demandante es quien debe pagarlos a su abogado.

Se revoca la sentencia apelada en cuanto condena a la demandada a pagar ₱10,000 como honorarios de abogado, y se confirma en todo lo demás.

Parás, Pres., Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and *Concepcion, MM.*, conformes.

Padilla, M., no tomó parte.

Se confirma la sentencia con modificación.

[No. L-6867. June 29, 1954]

AHMED ALCAMEL ABELLA, petitioner and appellant, *vs.* HONORABLE JOSE V. RODRIGUEZ, City of Mayor of Cebu, respondent and appellee.

ADMINISTRATIVE LAW; DETECTIVES CONSIDERED MEMBERS OF POLICE FORCE; SUMMMARY DISMISSAL CONSIDERED ILLEGAL.—Under the Charter of the City of Cebu, both policemen and detectives perform common functions and duties and both belong to the police department. In contemplation of law, therefore, both shall be considered as members of the police force and may only be separated from the service in accordance with the provisions of Republic Act No. 557. The provisions of this Act not having been complied with, the dismissal of petitioner for loss of confidence is illegal.

ORIGINAL ACTION in the Supreme Court. Mandamus.

The facts are stated in the opinion of the court.

Antonio Abad Tormis for petitioner.
Jose L. Abad and Quirico Del Mar for respondent.

LABRADOR, *J.:*

This is an original action of mandamus instituted by the petitioner, a former detective in the secret service force of the City of Cebu, to compel the respondent city mayor to reinstate him in his former position, from which position respondent dismissed him beginning November 1, 1952. The records disclose that the petitioner was appointed detective in the secret service in the City of Cebu on October 1, 1947. From that time he served in the said service continuously up to October 31, 1952. On October 28, 1952, the respodent city mayor notified him

separation from the service, effective at the end of business hours on October 31, 1952.

The reason given by respondent for petitioner's separation is as follows:

> Inasmuch as you are occupying a position which is primarily confidential in nature and that the undersigned has lost his trust and confidence in you, please be advised that your services as Detective in the Police Department of this City, are hereby terminated effective at the close of business hours on October 31, 1952. (Exhibit I.)

Petitioner protested his separation and demanded reinstatement but the respondent refused, so petitioner instituted the present action of mandamus.

The defenses presented by the respondent are that the petitioner is not a civil service eligible; that he was summarily dismissed for lack of confidence in pursuance of Executive Order No. 264, series of 1940, of the President of the Philippines; and that petitioner is not a member of the police force, he being a detective in the secret service thereof, without any civil service eligibility whatsoever and, therefore, he may not invoke in his favor the provisions of Republic Act No. 557.

The Court of First Instance of Cebu, after due trial, ruled that members of the detective force of Cebu City are not members of the police department thereof and, therefore, are not entitled to the previous investigation required of members of the city police force, a requisite to dismissal pursuant to Republic Act No. 557. In other words, it ruled that detectives hold positions which are primarily confidential and, therefore, are subject to separation from the service in accordance with Executive Order No. 264, series 1940. Against this decision the petitioner has prosecuted this appeal, contending that the trial court committed an error in its conclusion of law.

The decisive question in this action is whether members of the detective force of the City of Cebu may be considered as members of the police department of said city. This question has already been decided in the affirmative by us in the cases of Mission, et al. *vs.* Del Rosario, et al., G. R. No. L–6754, promulgated on February 26, 1954, and Palamine, et al. *vs.* Zagado, et al., G. R. No. L–6901, promulgated on March 5, 1954. In these cases we held that "* * *, both policemen and detectives perform common functions and duties and both belong to the police department. In contemplation of law, therefore, both shall be considered as members of the police force of the City of ."

e petitioner is a member of the police department ity of Cebu, he may not be summarily dismissed; only be separated from the service in accordance e provisions of Republic Act No. 557. The provi- of this Act not having been complied with, his

dismissal or separation from the service must be considered illegal.

It is to be noted that the claim made in the answer of the respondent that the petitioner is a temporary employee and is not a civil service eligible was not insisted upon as a defense in the court *a quo*, nor relied upon in this Court as a ground for sustaining the judgment. There is, furthermore, no evidence to support this defense; on the other hand, the oath of office of the petitioner does not show that his appointment was merely in a temporary capacity.

The petition is, therefore, hereby granted and the respondent city mayor is hereby ordered to reinstate petitioner to his position as detective in the secret service of the police department of the City of Cebu, with salary during the period of his separation. Without costs.

Parás, C. J., Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, and *Concepcion, JJ.,* concur.

Petition granted.

[No. L-5705. June 30, 1954]

MARIA ANGELES DE MACALINAO, ET AL., plaintiffs and appellants, *vs.* URSULA VALDEZ VDA. DE ANGELES, ET AL., defendants and appellees.

1. SETTLEMENT OF ESTATE OF DECEASED PERSONS; ACTION FOR ACCOUNTING, LIQUIDATION AND PARTITION PREFERRED TO INTESTATE PROCEEDINGS.—When the heirs are of age or duly represented, and the estate has no debts, an ordinary action for accounting, liquidation and partition of the community property, expressly recognized by section 685 of the Code of Civil Procedure, as amended by Act No. 3176, is preferred to an intestate proceeding which is always long and costly.

2. ID.; ID.; MANIFESTATION TO FILE INTESTATE PROCEEDING DOES NOT PRECLUDE OTHER PROPER AND LESS BURDENSOME REMEDY.—The fact that the lower court suspended this land registration case upon the oppositors' manifestation that an intestate proceeding would be filed, did not legally deprive [illegible] availing themselves of the proper and less burdensome remedy (ordinary action for accounting, liquidation and partition), especially in the absence of any law requiring that estates of deceased persons must always be brought to courts for administration and liquidation.

3. ID.; ID.; ID.; SCOPE OF LAND REGISTRATION PROCEEDI[illegible] ACTION FOR ACCOUNTING, LIQUIDATION AND PARTIT[illegible] lees' contention that the action at bar is not any [illegible] the land registration case wherein the question [illegible] as well be decided, finds an easy answer in the f[illegible] appellants seek, in addition to their ownership, [illegible] and liquidation of the conjugal estate of the [illegible] in interest.

APPEAL from a judgment of the Court of [illegible] of Rizal. Tan, J.

The facts are stated in the opinion of the court.

Vicente M. Noche for plaintiffs and appellants.
Jose P. Santos for defendants and appellees.

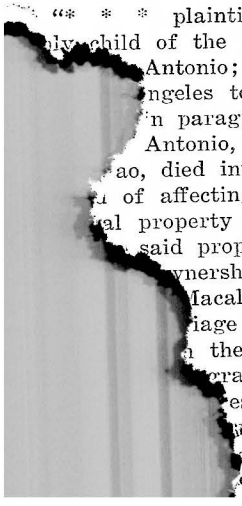
PARÁS, *C. J.:*

In land registration case No. 469 of the Court of First Intance of Rizal, Ursula Valdez Vda. de Angeles et al., are the applicants, and Maria Angeles de Macalinao the oppositor, the subject matter being two parcels of land situated in the municipality of Pasig. During a pre-trial counsel for Maria Angeles de Macalinao manifested that she would file intestate proceedings before the same court with a view to determining the ownership of the two parcels of land in question, and this led the court to issue the following order:

"The parties in this case are sisters and near relatives. The Court, in its efforts to have the parties come into an amicable settlement of the case in accordance with the provisions of the new Civil Code, called the parties to a pre-trial, but in spite of the diligent efforts exerted by the Court and the attorneys for both parties, the litigants failed to reach an amicable settlement of the case. The attorney for the oppositor manifested to the Court that an intestate proceeding would be presented to this Court in connection with the same property involved in this registration proceeding.

"IN VIEW of that manifestation of counsel for the oppositor, the hearing of this case is hereby suspended until the real owner of the properties involved in this case is decided in the intestate estate proceedings to be filed in this Court."

On February 4, 1952, Maria Angeles de Macalinao and her husband Sergio Macalinao, instead of filing intestate proceedings, instituted in the Court of First Instance of Rizal against Ursula Valdez Vda. de Angeles et al., an action for accounting, liquidation and partition of a conjugal estate involving the aforementioned two lots. The basic facts of this action are as follows:



"* * * plaintiff-appellant, Maria Angeles de Macalinao, is the ly child of the deceased Jose Angeles by his first marriage to Antonio; that during the existence of the first marriage ngeles to Engracia Antonio they acquired the property n paragraph 4 of the complaint; that sometime in 1902 Antonio, mother of plaintiff-appellant, Maria Angeles de ao, died intestate, and Jose Angeles, the surviving spouse, of affecting the liquidation and partition of the dissolved al property as described in paragraph 2 of the complaint, said property pro-indiviso, thereby giving rise to a com- nership between himself and plaintiff-appellant, Maria Macalinao; that thereafter, Jose Angeles contracted iage to Gregoria Antonio, sister of Engracia, and out they acquired another property, that which is de- raph 8 of the complaint, and of which defendants- esentation of Ernesto Angeles, Sr. now deceased, nesto Angeles, Sr., being the only child of Jose cond marriage to Gregoria Antonio; that Jose oria Antonio died intestate in the years 1913 and

1943, respectively, leaving the two properties undivided between the heirs, who in this case are the plaintiffs-appellants and defendants-appellees."

The defendants Ursula Valdez Vda. de Angeles et al., filed a motion to dismiss the complaint for accounting partition and liquidation, on the ground that the directive in the land registration case was for the filing by Maria Angeles de Macalinao of an intestate proceeding. This motion to dismiss was granted by the lower court, which also denied a subsequent motion for reconsideration filed by the plaintiffs Maria Angeles de Macalinao and Sergio Macalinao. The latter have appealed.

Section 685 of the Code of Civil Procedure, as amended by Act No. 3176, provides that: "When the marriage is dissolved by the death of the husband or wife, the community property shall be inventoried, administered and liquidated, and the debts thereof shall be paid, in the testamentary or intestate proceedings of the deceased spouse, in accordance with the provisions of this Code relative to the administration and liquidation of the estates of the deceased persons, *or in an ordinary liquidation and partition proceeding,* unless the parties, being all of age and legally capacitated, avail themselves of the right granted to them by this Code of proceeding to an extrajudicial partition and liquidation of said property." (Italics supplied). Expressly recognized by this legal provision, the ordinary action instituted herein by the appellants is even preferred to an intestate proceeding, when the heirs are of age or duly represented, and the estate has no debts. "When the heirs are all of lawful age and three are no debts there is no reason why the estate should be burdened with the cost and expenses of an administration." (Ilustre *vs.* Alaras Frondosa, 17 Phil., 321; Bondad *vs.* Bondad, 34 Phil., 232; Baldemor *vs.* Malangyaon, 34 Phil. 367). As repeatedly held, "when a person dies with[out] leaving pending obligations to be paid, his heirs, w[hether] er of age or not, are not bound to submit the pro[perty] to a judicial administration, which is always long[,] costly, or to apply for the appointment of an administ[rator] by the court * * * It has been uniformly held tha[t] such case the judicial administration and the appointm[ent] of an administrator are superfluous and unnecessar[y] ceedings" (Utulo *vs.* Pasion, 66 Phil., 302, 306 other cases).

The fact that the lower court suspended [the] istration case upon appellants' manifestat[ion] testate proceeding would be filed, did not [deprive] them of availing themselves of the prope[r] for that matter less burdensome) remedy [in] the absence of any law requiring that the estat[e]

persons must always be brought to the courts for administration and liquidation. At any rate, the essential basis of the order suspending the registration case was the necessity for determining the ownership of the controverted land. The theory of the lower court in dismissing the present case, would prefer form to substance.

Appellees' contention that the action at bar is not any better than the land registration case wherein the question of title could as well be decided, finds an easy answer in the fact that the appellants seek, in addition to their ownership, an accounting and liquidation of the conjugal estate of their predecessors in interest.

Wherefore, the appealed order is reversed and set aside, and the case remanded to the lower court for further proceedings. So ordered, with costs against defendants-appellees.

Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and *Concepcion, JJ.,* concur.

Order reversed and set aside.

[No. L-6303. June 30, 1954]

In the matter of the last will and testament of JOSE VAÑO, deceased. TEODORO VAÑO, petitioner and appellant, *vs.* PAZ VAÑO VDA. DE GARCES, ET AL., oppositors and appellees.

1. WILLS, PROBATE OF; ISSUE IN CONTESTED WILLS; RULE IN THIS JURISDICTION—ISSUE IS FIXED BY RULES OF COURT; ISSUE MAY NOT BE VARIED BY PLEADINGS.—The rule in this jurisdiction is that the issue in contested wills is fixed by the Rules of Court, that is, before the probate court can allow the will it must be satisfied upon proof taken and filed, that the will was duly executed, and that the testator at the time of its execution was of sound and disposing mind and not acting under duress, menace, and undue influence, or fraud. This issue may not be varied by the pleadings.

ID.; EVIDENCE; OPPOSITOR MAY ADD OTHER GROUNDS AND UBMIT EVIDENCE IN SUPPORT THEREOF.—An oppositor objecting o the probate of a will on one or two specific grounds may, uring the hearing, add other grounds and submit evidence n support of the same.

D.; ID.; ID.; SERVICE OF OPPOSITION TO ALL PERSONS INTERESTED, PURPOSE OF.—The purpose of the law (section 10, Rule 77 the Rules of Court) of requiring persons contesting probate tate his grounds of opposition and serve copy thereof to itioner and other residents of the province interested state is to apprise said persons of the reasons in bate so that they may prepare the necessary evi- teract and disprove said grounds of opposition, on to apprising the court itself of the issue in- proceedings so that it may intelligently direct ion of evidence during the hearing.

'ACTORS TO BE CONSIDERED IN DETERMINING GEN- SIGNATURE OF TESTATOR.—When the genuiness of the

testator's signature is put in issue, his age, infirmity and state of health should be given due consideration. Where the testator, at the time the contested will was made, was 78 years old and suffering from apparently advanced pulmonary tuberculosis and rheumatism, it is natural that his signature should lack the firmness, rhythm, lack of effort and continuity of motion that it had before he became quite ill and infirm.

5. ID.; ID.; ID.; CREDIBILITY OF WITNESSES.—Where the three subscribing witnesses to the will who were in no way related to the testator, had no interest in the execution of the will and stood to gain nothing by its probate, under oath assured the court that the testator voluntarily signed the will, their disinterested testimony can not be taken lightly.

APPEAL from a judgment of the Court of First Instance of Cebu. Saguin, *J.*

The facts are stated in the opinion of the court.

Vicente L. Faelnar and *Roque R. Luspo* for the petitioner and appellant.

Pelaez, Pelaez, & Pelaez and *Ramon Duterte* for the oppositors and appellees.

MONTEMAYOR, *J.:*

This is an appeal by petitioner Teodoro Vaño from a decision of the Court of First Instance of Cebu denying probate of the document (Exhibit "A"), said to be the LAST WILL AND TESTAMENT of Jose Vaño. The appeal was first taken to the Court of Appeals where the record on appeal and the briefs of petitioner and oppositors were filed. Subsequently, however, on joint motion of both parties requesting that the appeal be elevated to the Supreme Court on the ground that the value of the properties involved as shown by the inventory was more than ₱50,000, the case being forwarded to this Tribunal where memoranda were filed in lieu of oral argument.

Jose Vaño died on January 28, 1950, in the City of Cebu. According to the certificate of the City Health Officer and Local Civil Registrar, Exhibit "C", he was 78 years old and he died of P. T. B. (pulmonary tuberculosis). He left properties valued at ₱95,913.05 as per inventory of the administrator but which according to the evidence are worth much more. On February 11, 1950, Teodoro Ceblero Vaño petitioned the Court of First Instance of Cebu to have a document supposed to be the last will and testament of Jose Vaño, and which he attached to his petition, probated. We reproduce said document—

"LAST WILL AND TESTAMENT

IN THE NAME OF THE FATHER, THE SON AND THE HOLY GHOST, AME

I, Jose Vaño, single, Filipino citizen, of legal age and resident Cebu City, being of sound and disposing mind and memory hereby make, execute and publish this my Last Will and Test in English, which language is known to me and which I tal and understand, hereby revoking and cancelling any and al

mentary provisions heretofore made by me, and the following shall be my Last Will:

1. I hereby make known to the world that Teodoro Ceblero Vaño is my son.

2. That I hereby bequeath to aforesaid Teodoro Ceblero Vaño all my properties.

In witness whereof, I have hereunto affixed my name at the City of Cebu, Philippines, this 11th day of December, 1949.

(Sgd.) JOSE VAÑO
Testator

We, the undersigned attesting witnesses, whose residences are stated opposite our respective names, do hereby certify that the testator whose name is signed hereinabove, has published unto us the foregoing WILL consisting of one page, as his Last Will and Testament, and has signed the same in our presence, and in witness whereof we have each signed the same in the presence of said testator and in the presence of each other.

Cebu City, Philippines, this 11th day of December, 1949.

PEDRO C. CENIZA—494–B Junquera, Cebu City
C. RAMA, M.D.—Basake, San Nicolas, Cebu City
NAZARIO R. PACQUIAO—553 A. P. del Rosario St., Cebu City"

Teodoro asked that he be appointed administrator of the estate and that pending his appointment as regular administrator, he be designated special administrator.

On March 24, 1950, Paz Vaño Vda. de Garces and the supposed heirs of Jesus Vaño, brother of Jose Vaño, filed the following opposition—

"OPPOSITION

Comes now Paz Vaño Vda. de Garces, and the heirs of Jesus Vaño, thru their undersigned attorneys, and to this Honorable Court respectfully states:

1. That the oppoistor Paz Vaño Vda. de Garces is the sister of the deceased Jose Vaño, and Filomena Vaño, Felicidad Vaño, Angel Vaño, Salvador Vaño, Norberto Vaño, Teodorico Vaño, and Irineo Vaño, are the children and heirs of Jesus (brother of Jose Vaño), and all of them are entitled to participate in the said Estate of the deceased Jose Vaño in case of intestacy;

2. That the instrument now offered for probate as will of the deceased Jose Vaño was procured by undue and improper pressure and influence on the part of Teodoro Ceblero who is not an acknowledged natural child of the deceased Jose Vaño;

3. That the said Jose Vaño was mentally incapable to make a will on December 11th, 1949;

4. That the signature of the testator Jose Vaño was procured by fraud and trick on the part of Teodoro Ceblero and the said deceased Jose Vaño never intended that the said document should be his will at the time of fixing his signature thereto;

5. That the instrument now offered for probate as will of the deceased Jose Vaño is written in English language which is not [illegible] usual and proper language of the deceased, and if the deceased [illegible]uld have had made any will he should have it written in Spanish;

[illegible] That the said deceased Jose Vaño never recognized Teodoro [illegible]ro as his acknowledged natural child, the same being a mere [illegible]e of the deceased, and not an adopted or acknowledged natural

7. That the deceased Jose Vaño had time and again told his sister and nephews that he will not execute a will because he wants to leave all his estate in favor of his brother and sister, and nephews;

8. That Dolores Garces de Falcon, a niece of the deceased Jose Vaño, being the nearest of kin, is a competent person to act as Administratrix of the estate of the deceased, and she is willing to serve as such;

PRAYER

For all the foregoing considerations, we respectfully pray this Honorable Court that the said will of the deceased Jose Vaño be declared null and void, and that it be not admitted to probate; That an administratrix of the said estate be appointed who shall distribute the same among the legal heirs of the deceased; That Dolores Garces de Falcon be appointed as Administratrix of the Estate of the deceased Jose Vaño.

Cebu City, Philippines, March 23, 1950."

On August 29, 1950, Irineo Vaño, one of the persons included in the opposition, filed a motion of the following tenor—

"MOTION

Comes now Ireneo Vaño and to this Honorable Court respectfully states:

1. That he is the son and only heir of Jesus Vaño, now deceased.

2. That his father Jesus Vaño is a brother of Jose Vaño, also deceased.

3. That in this case a petition has been presented for the probate of the last will and testament of Jose Vaño.

4. That an opposition has been filed against the probate of said will.

5. That he is named as one of the oppositors, without his knowledge and consent.

6. That he does not oppose nor intends to oppose the probate of the will in question, because that document contains a true expression of the wish and desire of Jose Vaño as to who shall inherit his property.

7. That he has not authorized anybody to file an opposition in his name.

PRAYER

WHEREFORE, the undersigned respectfully prays this Honorable Court to cancel his name from the list of oppositors mentioned in the opposition to the petition filed by Teodoro Vaño.

Tagbilaran, Bohol (for the City of Cebu), August 8, 1950."

Said motion of Ireneo Vaño was granted by the Court. In the course of the hearing, he was presented as one of the witnesses for petitioner Teodoro and he declared that he was the son of Jesus Vaño, already dead; that he knew Filomena Falcon, Felicidad Calibo, Angel Falcon, Salvador Flores, Norberto Calibo, and Teodorico Falcon, who are sometimes known by the surname Vaño but that they were not related to him because he had no brothers or sisters; that his father Jesus Vaño was a younger brother of the testator Jose Vaño; that petitioner Teodoro Vaño was his cousin, son of Jose Vaño, and that he knew of the blood relationship between the testator and Teodoro Vaño because

he (Ireneo) since childhood used to go to his uncle's house where Teodoro lived and he saw that Teodoro was treated as a son by Jose Vaño, who paid for Teodoro's board at the Colegio del Niño where the two of them were students; that he (Ireneo) never authorized anyone to include him as oppositor to the probate of the will of Jose Vaño and that he did not oppose its probate.

The three attesting witnesses Pedro Ceniza, Dr. Osmundo Rama and Atty. Nazario Pacquiao testified for the petitioner and assured the court that Exhibit "A" was the last will and testament of the late Jose Vaño; that he signed Exhibit "A" in their presence, and that each of them signed the same after him, in his presence and in the presence of each other; that at the time of the execution of the document in the afternoon of December 11, 1949, the testator was of sound and disposing mind and memory and that it was his voluntary act, no pressure or influence having been exerted on him; that the blank space after the letter "I" in the first paragraph of Exhibit "A" was filled out by the testator himself although they (witnesses) differ as to who filled out the blank spaces on the document where the words "11th" and "December" appear. Atty. Pacquiao told the court that it was he who prepared the will (Exhibit A) pursuant to the wishes of the testator.

For the opposition Ciriaca Alse who formerly worked as a servant in the household of Teodoro Vaño, Dolores Garces de Falcon, a daughter of Paz Vaño Vda. de Garces and Carmen Vallore testified. The burden of their testimony is that from November 1949, Jose Vaño was already very sick; that in December he was in serious, if not critical, condition; that he was always in bed, oftentimes unable to move or open his eyes and he could not maintain any conversation with anyone; that he had to be fed by someone; and that he was bed-ridden and already had bed-sores. The idea sought to be conveyed by them was that the testator was in no condition to execute a will.

Mr. Edgar Bond, an examiner of questioned documents and chief of the Questioned Documents and Ballistics Division of the National Bureau of Investigation was also presented by the opposition as a handwriting expert and he told the court that after examining the supposed signatures of Jose Vaño on Exhibit "A" and comparing them with his accepted standard signatures, he was convinced that the signatures on Exhibit "A" were forgeries. His testimony was vigorously objected to by counsel for the petitioner on the ground that the genuineness of the signature of the testator on Exhibit "A" was never placed in issue because the written opposition of the opponents virtually admitted the genuineness and merely claimed that the will was not the testator's voluntary act because said signature was

obtained thru trickery and that undue pressure and influence were brought to bear upon him.

To counteract the testimony of Bond, the deposition of Dr. Paul Rodriguez Versoza, another handwriting expert was taken and introduced in evidence. Dr. Versoza claims that after examining the signatures of Jose Vaño on Exhibit "A" and comparing them with accepted standard signatures of the testator, he was convinced that the signatures on Exhibit "A" were genuine and that any difference noted between them were due to the age, weakness, and illness of the testator, especially the fact that he was suffering from rheumatism. After hearing, the learned trial court noting discrepancies in the testimonies of the three attesting witnesses as to the due execution of Exhibit "A", and accepting the expert testimony of Mr. Bond over that of Dr. Versoza, came to the conclusion that the supposed signatures of Jose Vaño on Exhibit "A" are not genuine but imitated and held that Exhibit "A" was not the last will and testament of Jose Vaño.

One of the errors assigned by petitioner-appellant is that the trial court erred in permitting appellees over the objection of appellant to present evidence which are contrary to their allegations in their opposition. It is his contention that the opponents not only failed to allege as a basis of their opposition that the signatures of the testator on the supposed will were forged but that on the contrary, they impliedly admitted the genuineness of said signatures, merely claiming that said signatures were obtained through trickery and fraud and under undue pressure and influence. This point brings us to a discussion of what evidence an opponent to a probate of a will may be permitted to present at the hearing—whether or not he is limited to presenting evidence to sustain the particular objection or ground on which he bases his opposition to the probate.

In some jurisdictions in the United States the rule is that the issue in contested wills is made up by the pleadings or framed from the same, and no evidence can be introduced except in support of allegations contained in such pleadings. For instance, if the only opposition to the probate of a will is lack of mental capacity of the testator, then the oppositor in presenting evidence will be confined to that point. In other jurisdictions, however, it is said that the issue is fixed by the statute and is practically the old common law issue "devisavit vel non," is the instrument presented for probate the last will and testament of the testator?; that said issue may not be varied by the pleadings and that every ground of attack on the validity of the will may be employed.

As the law in our jurisdiction on the probate of wil[illegible] now stands, we are inclined to adopt the second v[illegible]

namely, that the law itself fixes or determines the issue, because under section 12, Rule 77, of the Rules of Court, before the probate court can allow the will it must be satisfied upon proof taken and filed, that the will was duly executed, and that the testator at the time of its execution was of sound and disposing mind and not acting under duress, menace, and undue influence, or fraud. Also, under section 9 of the same rule, a will may be disallowed (*a*) it not executed and attested as required by law; (*b*) if the testator was mentally incapable of making a will; (*c*) if it was executed under duress, or the influence of fear, or threats; (*d*) if it was procured by undue and improper pressure and influence on the part of the beneficiary; and (*e*) if the signature of the testator was procured by fraud and trick. The oppositors in the present case therefore were not precluded from attacking the will on the ground of forgery despite the fact that their opposition was confined to grounds (*b*), (*c*) and (*d*) of section 12, Rule 77 as stated above.

On the other hand, section 10 of the same rule 77 provides that "anyone appearing to contest the will must file a writing stating his grounds for opposing its allowance; and serve a copy thereof on the petitioner and other residents of the province interested in the estate." The purpose of this legal provision is clear, and it is to apprise the person or persons seeking the probate of a will, as well as any other person interested in the estate, of the reasons in opposing probate so that they may prepare the necessary evidence to counteract and disprove said ground of opposition, this, in addition to apprising the court itself of the issue involved in the proceedings so that it may intelligently direct the presentation of evidence during the hearing. Of course, as we have already stated, an oppositor objecting to the probate of the will on one or two specific grounds may, during the hearing add to the grounds and submit evidence in support of the same, but when this happens as it did in the present case, one is more or less justified in inferring that the oppositors were not sure of their ground; that they were in doubt as to the basis of their opposition, a fact which naturally and not inconsiderably weakens their stand. One of the grounds of their opposition was that the signature of the testator was procured by fraud and trick, thereby leading one to believe, including the court and the petitioner that said signature was genuine but was not valid. At the hearing, said oppositors completely changed their stand and claimed that the signature was actually forged. As we have already said, that conduct and attitude, changeable and uncertain, does not strengthen their position.

Let us now go to the evidence on the alleged forgery of the signatures of the testator Jose Vaño. We have care-

fully read the testimony of Mr. Bond for the oppositors and the deposition of Dr. Versoza for the petitioner. There is no reason for doubting the qualifications, sincerity, and honesty of these two witnesses. Their opinions seem to be plausible, arrived at after an analysis and comparison of the questioned signatures with the standard and accepted signatures of the testator; but we fear that the infirmity, age, and state of health of the testator had not been given due consideration by the witness of the opponents and by the court. There is no question that there are differences and discrepancies between the two signatures reading "Jose Vaño" on Exhibit "A" and the genuine, accepted signatures of the testator even as late as the last part of the year 1949. But we should not forget that on December 11th of the same year when he executed Exhibit "A", he was suffering from apparently advanced pulmonary tuberculosis as well as rheumatism which according to Dr. Osmundo Rama who had been treating him until the day he died, affected his joints. The testator was then 78 years old, lying in bed most of the time, so much so that he developed bed-sores, sitting up in bed only once in a while, and at those times, his hands trembled. It is natural that his signatures on Exhibit "A" should lack the firmness, rhythm, lack of effort and continuity of motion that they had before he became quite ill and infirm. Examining the signatures on Exhibit "A", the original of the will, and those on Exhibit "3–A", a carbon copy thereof, it will be readily observed that while the signatures on the original are already infirm, rough and jagged, suggesting a hand infirm and trembling, those on the duplicate (Exhibit "3–A") are still more so, showing the effects of the concentration of attention, exertion and effort of the testator in reading and signing the orginal.

But there are other and equally important considerations which favor the conclusion that Exhibit "A" was duly signed and executed by the testator. As already stated, in their written opposition the opponents did not question but on the contrary, assumed if not conceded the genuineness of the signatures of the testator. Then at the hearing, they changed their attitude and for the first time put in issue the genuineness of said signatures; this despite the fact that the original of the will (Exhibit "A") was filed in court on February 11, 1950, and the opposition was filed on March 24th of the same year. In other words, the opponents and their lawyers had almost one and a half month within which to examine and scrutinize the signatures Exhibit "A", after which examination they did not d their genuineness.

Again, the opponents included Irineo Vaño, a so Jesus Vaño, brother of the testator, among the opp This same Irineo later filed a motion in court rep

the action taken by the opponents, saying that he was included among the oppositors without his knowledge or consent; that far from opposing the probate of the will of his uncle, he believed that said will was a true expression of the wish and desire of the testator. Not only this, but he testified for the petitioner and said that the petitioner Teodoro Vaño was the son of the testator and had been treated by him as such since childhood.

The learned trial court lays emphasis on the uncertainty of the three subscribing witnesses as to who filled out the blank spaces on the will now occupied by the words "11th" and "December", while they are sure that the name Jose Vaño on the space at the beginning of the first paragraph was written by the testator himself. Said uncertainty on the part of the said three subscribing witnesses instead of affecting their veracity, in our opinion, strengthens it, because it refers to a minor detail and shows that they had not been rehearsed but on the contrary, testified to what they remembered. In this connection, there is every reason to believe that the fact that the space for the name Jose Vaño on Exhibit "A" was left in blank to be filled out later by the testator himself argues against the theory of forgery, because if there had been forgery, by leaving the blank space for the name of the testator to be filled out later, including the space for the date and the month, the forgers would be laying themselves open and unnecessarily creating an additional opportunity for the opponents and for the court to detect the forgery.

After all, there was neither necessity nor occasion for forging the signatures of the testator in the will because there is every reason to believe that said testator would leave all his property to petitioner Teodoro Vaño. The evidence shows that Teodoro was a natural son of the testator. From childhood he had been raised by Jose Vaño, treated like a son, and sent to school, and even after Teodoro had married, he and his wife and family continued to live with the old man, or rather, the old man lived with them. Jose Vaño in 1945, in a public instrument entitled "Special Power of Attorney" (Exhibit "E") referred to Teodoro Vaño as his son and appointed him as his attorney-in-fact to lease to the United States of America any, some or all real properties owned by him in the City of Cebu, under such terms and conditions which Teodoro may deem just and reasonable, and to execute and sign the corresponding deeds of lease, and to collect and receive the rents. This was accepted and acted upon by Teodoro Vaño. In 1946 1947 the testator appointed Teodoro his attorney-in-fact ng him a power of attorney with extensive powers such o lease to the Republic of the Philippines some of his nd personal properties in the City of Cebu, and to nd receive the rentals accruing from the leased ies; to ask, demand, sue for, recover, and collect

bequests, interests, dividends, etc., which thereafter become due or owing to him and to make, sign, execute, and deliver contracts, documents, agreements, and other writings of whatever nature with any and all third persons upon terms and conditions acceptable to him (Teodoro), Exhibits "F" and "G". In 1946 while the testator was in Bohol, he wrote to Teodoro a note (Exhibit "I") addressing him as his "dear son" and with the complimentary clause "your loving Dad", signing the same, asking Teodoro to send ₱5,000 to him. It seems that at least in Cebu and Bohol, petitioner Teodoro Vaño was known by everyone to be the son of Jose Vaño because the latter had treated and accepted, even recognized him as such, and shortly before his death, entrusted him with the complete management of his business. One of the witnesses for the opposition, Carmen Vallore, cousin in law of the testator, in her testimony called Milagros Vaño, wife of Teodoro Vaño, as the daugther-in-law of Jose Vaño, meaning that Teodoro was the son of the testator. During the hearing and while Teodoro Vaño was testifying, counsel for the oppositors repeatedly referred to the testator as his (Teodoro's) father. Under all these circumstances, is it any wonder that Jose Vaño should voluntarily by means of a will, leave all his properties to his only son, though natural?

It is not improbable that one of the reasons prompting the filing of the opposition to the petition for probate was that Paz Vaño Vda. de Garces, sister of the testator, could not understand why her brother, a wealthy man should leave all his wealth to a mere natural son (Teodoro) and leave nothing to her; but it was not altogether strange because it seems that the relations between Paz and the testator, were rather strained and in 1949, according to the evidence, Paz had brought a civil action against Jose Vaño and Irineo Vaño, the nephew of Jose Vaño who refused to oppose the probate of the will. And during the last and prolonged illness of the testator, Paz, living in the same city of Cebu, did not even once visit her ailing and bed-ridden brother.

The three subscribing witnesses to the will, under oath assured the court that Jose Vaño voluntarily signed Exhibit "A", and these three witnesses were in no way related to Teodoro or to the testator, had no interest in the execution of the will and stood to gain nothing by its probate. Pedro Ceniza is a responsible businessman, Dr. Osmundo Rama, is a practicing physician and Atty. Nazario Pacquiao, a member of the bar and at the time he prepared Ex "A", he was Assistant Provincial Fiscal of Cebu. T disinterested testimony cannot be taken lightly. question of the weight to be given to the testi subscribing witnesses, we held in the case Roxas, et al., G. R. No. L-2393, that—

We do not venture to impute bias to the experts introduced during the trial but we hasten to state that the positive testimony of the three attesting witnesses ought to prevail over the expert opinions which cannot be mathematically precise but which, on the contrary, are 'subject to inherent infirmities.'

"The law impliedly recognizes he almost conclusive weight of the testimony of attesting witnesses when it provides that 'if the will is contested, all the subscribing witnesses present in the Philippines and not insane, must be produced and examined, and the death, absence or insanity of any one of them must be satisfactorily shown to the Court.' (Section 11, Rule 77, Rules of Court.)"

In the present case, the opinions of the two handwriting experts presented by the parties are conflicting and even assuming that there is doubt to our mind as to which of the two is to be accepted, the positive and clear testimony of the three subscribing witnesses should prevail. In the case of In re Will of Medina, 60 Phil., 391, this Court said:

"In the present case, two of the subscribing witnesses are lawyers. This fact together with the circumstances that they were not shown to have any interest in the subject of the litigation, lead the trial court to consider their testimony as worthy of credit. The intervention of professional men specially lawyers, in the preparation and execution of wills, has been given by this Court the consideration deserved."

Reiterating the doctrine laid down in the case of Sotelo *vs.* Luzon, 59 Phil., 908, we further held in the same case:

"In one case it was said: 'It is hardly conceivable that any attorney of any standing would risk his professional reputation by falsifying a will and then go before a court and give false testimony.'"

There is no reason to believe that Atty. Pacquiao who, at the time was not only a member of the law but was an assistant provincial fiscal, should commit forgery by drafting Exhibit "A" and take part in forging the signature of the testator and later falsely testify in court on the due execution of said will and subject himself not only to criminal prosecution and dismissal from his post as assistant provincial fiscal, but also to disbarment proceedings.

In view of the foregoing, the decision appealed from is reversed and Exhibit "A" is hereby allowed probate as the LAST WILL AND TESTAMENT of Jose Vaño, with costs against appellees.

Parás, C. J., Pablo, Padilla, Reyes, Jugo, Bautista Angelo, Labrador, and *Concepcion, JJ.,* concur.

Judgment reversed.

[No. L-6395. June 30, 1954]

E YNZA, plaintiff and appellant, *vs.* HUGO P. RODRIGUEZ, ET AL., defendants and appellees

NTARY SUCCESSION; ACCRETION; WHERE PERSONS CALLED NHERITANCE SURVIVED TESTATOR, CONDITION IMPOSED RE- S CHARGE OR TRUST; CONDITION MAY NOT BE ENFORCED

AT THE INSTANCE OF STATE BUT BY INTERESTED LEGATEES; LEGATEE WHO HAD VIOLATED CONDITION AND RENOUNCED RIGHT UNDER IT, BARRED.—D left a will Exhibit "A" naming his three adulterous children, J, Y and M as legatees. The properties involved were situated in Iloilo City and the Province of Negros Occidental. The will provided, among others, that "si alguno de mis legatarios arriba nombrados, falleciere sin sucesion, entonces la parte a él legarda acrecera a la porción o porciones correspondientes a los demás legatarios que le sobrevivan." M sold her whole share to her co-legatees, leaving J and Y as sole co-owners. After the project of partition was approved, Y sold to his co-legatee and co-owner J his one-half share of the estate situated in Iloilo City. J died without issue, leaving a will, whereby she bequeathed all her properties in Iloilo City to the Staub sisters and her properties in Negros Occidental, one-fourth to Y and the remaining three-fourths to other legatees. With the conformity of all the legatees, including Y, a project of partition was submitted and approved by the court, and the properties were distributed among the legatees. Y now insists that by virtue of the condition imposed in their father's will Exhibit "A", he became the absolute owner of all the properties left by D. *Held:* Under article 982 of the old Civil Code, there is right of accretion in testamentary succession when two or more persons are called to the same inheritance or to the same portion thereof without special designation of parts, and one of the persons so called dies before the testator or renounces the inheritance or be incapable of receiving it. In the present case, the three persons called to the inheritance survived the testator. However, the condition imposed in the will of D might possibly be regarded as a charge or trust limiting the ownership and disposition of the one-third portion alloted to each of the legatees. The intention of the testator might have been to prevent the property from going into the hands of strangers and at the same time giving a right to the surviving legatee or legatees the right to receive intact the one-third portion of the legatee who dies without issue. This right may naturally be renounced or waived by any of the legatees who stands to benefit by it; and as to the condition that none of the properties or estate of D should go into the hands of strangers, since it is a condition not entirely unselfish, and it is not affected with the public interest but on the contrary, is rather against public policy in that it limits the right of ownership and free disposal of private property, said condition may not be enforced at the instance of the State. It may be enforced only by the legatees who have an interest in its enforcement; but surely not by the legatee who from the very beginning not only had violated that condition but had renounced his right to it.

APPEAL from a judgment of the Court of First Instance of Iloilo. Blanco, *J.*

The facts are stated in the opinion of the court.

Mariano A. Aguilar for plaintiff and appellant.

Benjamin H. Tirol and *Hugo P. Rodriguez* for defendants and appellees.

MONTEMAYOR, *J.:*

Dionisio Ynza, of Spanish descent, single, a[n] ident of Iloilo City, died on September 3, 1[9]

a will (Exhibit A) which was probated on October 6, 1932, in Special Proceedings No. 2025. He left extensive properties, real and personal, in the City of Iloilo and in the Province of Negros Occidental. The paragraphs of his will pertinent to and involved in the present case are the following:

"CUATRO. Ordeno que todos mis bienes arriba relacionados y los que posea en el día de mi muerte, así, como todo el dinero efectivo que encuentro en caja, en los Bancos depositados en mi nombre, los azucares y otros bienes y derechos que me corresponden sean repartidos en la siguiente forma:

"1. Lego a Julia Ynza, soltera de 25 años de edad, una tercera parte de todos mis bienes y derechos.

"2. Lego a Jose Ynza, soltero de 23 años de edad, una tercera parte de todos mis bienes y derechos.

"3. Lego a Maria Cristina Ynza de 21 años de edad, una tercera parte de todos mis bienes y derechos.

"QUINTO. Es mi voluntad que si alguno de mis legatarios arriba nombrados, falleciere sin sucesión, entonces la parte a el legada acrecera a la porción o porciones correspondientes a les demas legatarios que le sobrevivan."

The will designated one ENRIQUE PIJUAN as executor and the probate court appointed plaintiff-appellant Jose Ynza as co-administrator. Subsequently, however, because of ill-health PIJUAN resigned as executor and Jose Ynza remained sole administrator of the estate.

It might be stated incidentally that the three legatees JULIA YNZA, JOSE YNZA and MARIA CRISTINA YNZA were, according to the record, adulterous children of the testator *Dionisio Ynza,* said to be children by different married women. The fact that in his will Dionisio Ynza affirmed that he was a bachelor and he did not mention any blood relationship with his three legatees lends support to this fact of illegitimacy of said three children.

In the month of December, 1932, about three months after the death of the testator and after the will was probated, one of the children and legatees, Maria Cristina Ynza who was then residing in Spain, came to the Philippines with her husband. Inasmuch as she wanted to keep her residence in Spain, she decided to sell as in fact she sold her share of one-third of all the estate of Dionisio Ynza, to her co-legatees Julia Ynza and Jose Ynza, for the sum of ₱118,000, thereby leaving Jose and lia sole co-owners of said estate. A project of parti- n (Exhibit B) was submitted by Jose Ynza as ad- nistrator and it was approved by the court on January 1933 (Exhibit D).

April 24, 1934, Jose Ynza sold to his co-legatee and her Julia his one-half share of the estate situated City of Iloilo as a result of which, he remained wner only of the properties situated in Negros

Julia Ynza died without issue in Iloilo on November 22, 1949, leaving a will (Exhibit E) which was probated on January 9, 1950, in Special Proceedings No. 652 of the Court of First Instance of Iloilo. In said will Julia left all her properties, real and personal, in the City of Iloilo to the Sisters SOFIA STAUB and CLAUDIA STAUB with a proviso that they have under their care her protegee CARMEN DANUYA, and that upon her attaining majority she be given the sum of ₱5,000 by the executor. Her properties situated in Negros Occidental were disposed of thus:

"A Jose Ynza lego UNA CUARTA PARTE; a los hijos de Maria Cristina Ynza lego UNA CUARTA PARTE; a Maria Luisa Lahorra lego UNA CUARTA PARTE; y a Aida Milagros Rodriguez lego UNA CUARTA PARTE de todas mis propiedades ubicadas en la provincia de Negros Occidental, con todos sus mejoras, que más especificamente se mencionan mas arriba."

One Hugo P. Rodriguez was appointed executor, and as regards the properties in Negros Occidental, he was appointed trustee in the following words:

"Con el fin de que los bienes que dejó, ubicados en la provincia de Negros Occidental los cuales han sufrido grandes daños durante la pasada guerra, puedan ser rehabilitados, organizados y administrados debidamente, al efecto de ponerlos en buen estado economico antes de ser distribuidos a mis legatarios o fideicomisarios, es mi voluntad que se conserven dichos bienes en estado de fideicomiso por espacio de 15 años * * *"

With the approval of Jose Ynza and his co-legatees under the will of Julia, Hugo P. Rodriguez qualified as executor of the will and as trustee of the properties in Negros Occidental, and with the conformity of the legatees, including Jose Ynza, he filed a motion for the declaration of heirs and for the approval of the project of partition, which project was approved by the court which ordered the distribution of the properties among the legatees (Exhibits 9 and 10). Later, in a motion for reconsideration (Exhibit 11) Jose Ynza for himself and for the children of Maria Cristina Ynza, questioned the propriety of the appointment of Hugo P. Rodriguez as trustee and he asked the court to order him to deliver to the wovant Jose Ynza his one-fourth portion of the one half of the real properties in Negros Occidental, left by the deceased Julia Ynza as well as the one-fourth portion corresponding to the children of Maria Cristina Ynza.

On December 22, 1950, Jose Ynza filed Civil Case 1855 of the Court of First Instance of Negros Occi against Jugo P. Rodriguez as executor of the w Julia Ynza and as *guardian ad litem* of his Aida Milagros Rodriguez, Jose Lahorra as gu *litem* of his daughter Maria Luisa Lahor Lacambra as guardian *ad litem* of Ali

and Maria Rosa Ortega-Ynza (children of Maria Cristina Ynza), alleging that he (Jose Ynza) was the absolute owner of one-half *pro indiviso* with the late Julia Ynza of the three haciendas NERVION, VICTORIA YNZA and STA. FILOMENA situated in Negros Occidental as well as one-fourth of the one-half belonging to the estate of Julia Ynza or a total of five eight, and that as such owner of five eight he had the right to demand the partition of said three haciendas, and since it was not possible to divide or sell said properties without prejudicing the interests of the parties, it was advisable that said haciendas be ceded to one of the legatees who could pay to his or her co-legatees the amount or value of their respective shares, and that for this purpose three commissioners be appointed to fix said amount. The defendants answered the complaint expressing conformity to the partition of the properties in Negros Occidental and even to the appointment of the commissioners should the parties be unable to come to an agreement regarding partition. The court appointed three commissioners who later filed their report (Exhibit 12–F) and a project of partition whereby each of the three haciendas were divided into two parts, one to pertain to Jose Ynza and the other to the estate of Julia Ynza. In the course of the hearing of the case and the report of the commissioners, plaintiff Jose Ynza moved for the sale at public auction of at least one of the haciendas for the reason that partition of the same would disfigure the hacienda and would result in the reduction of its value. On September 4, 1951, the court decide dthe case approving the report of the commissioners, except that portion referring to personal properties, the court leaving their partition to the parties to decide. The portion alloted to Jose Ynza according to the project of partition prepared by the commissioners was adjudged and decreed to him and the portion alloted to the estate of Julia Ynza and adjudged and decreed to said estate "to be held and enjoyed by the legatees and assigns subject to the will left by the deceased Julia Ynza." Plaintiff tried to appeal this decision but due to his failure to file the necessary appeal bond the decision became final and on November 25, 1951, a writ of execution (Exhibit 12–T) was issued and the writ was executed on February 27, 1952, whereby EMILIO LACAMBRA in representation of Jose Ynza delivered to the Provincial Sheriff the properties belonging to the estate of Julia Ynza situated in the province of Negros Occidental (Exhibit 12–V). In the meantime, Jose Ynza as plaintiff in case G. R. No. L–4957 filed a mandamus proceedings in the Supreme Court to compel the court in Civil Case No. 1855 to sell at public auction the properties subject of the partition proceedings. The mandamus was later dismissed at his

own instance by resolution of this court of November 23, 1951 (Exhibit 23).

In an attempt to stop the Negros Occidental court from executing its judgment, plaintiff filed prohibition proceedings in the Supreme Court against Judge Jose Teodoro as Judge of the Court of First Instance of Negros Occidental, the clerk of said Court, the Register of Deeds of that province and Hugo P. Rodriguez as administrator of the estate of Julia Ynza, in case G. R. No. L–5330, but the petition was summarily dismissed for lack of merit by resolution of this court of December 18, 1951. Then plaintiff Jose Ynza instituted the present action in the Court of First Instance of Iloilo, Civil Case No. 2281, against Hugo P. Rodriguez as administrator of the estate of Julia Ynza, Sofia Staub, Claudia Staub, Jose Lahorra as guardian *ad litem* of his daughter Maria Luisa Lahorra; Alfredo Javellana and Gloria Salvador; Rosario A. de Rodriguez as guardian *ad litem* of her minor daughter Aida Milagros Rodriguez; Maria Cristina Ynza for herself and as guardian *ad litem* of her minor daughters Alicia and Maria Rosa Ortega-Ynza; and Sofronio M. Flores and Cirilo Abrasia, to declare himself absolute owner of all the properties left by Julia Ynza including their products, by virtue of the right of accretion established in the conditional legacy by Dionisio Ynza under paragraph 5 of his will (Exhibit A). For purposes of ready reference we again reproduce said paragraph 5 of the will (Exhibit A), to wit:

> "QUINTO. Es mi voluntad que si alguno de mis legatarios arriba nombrados, falleciere sin sucesión, entonces la parte a el legada acrecera a la porción o porciones correspondiente a los demas legatarios que le sobrevivan."

After hearing, the Court of First Instance of Iloilo presided over by Judge Manuel Blanco held that the three legatees Jose Ynza, Julia Ynza and Maria Cristina Ynza had not respected but on the contrary had violated the wish of their father contained in paragraph 5 of his will, because they had been buying and selling the whole or part of the legacies received by them; as for instance Maria Cristina Ynza sold her share to Jose and Julia for ₱118,000 and Jose Ynza sold his one-half share of the properties situated in Iloilo left by his father to his co-legatee Julia Ynza. Again, Jose Ynza had agreed to the provision of the will of Julia Ynza regarding the distribution of her properties and also agreed to the project of partition on the basis of said will whereby said properties were given to other persons other than Jose and Maria Cristina Ynza despite the fact that Julia died without issue. As a result the trial court absolved defendants from the complaint, with costs. Jose is appealing from that decision.

We are in full accord with the lower court that the attitude and conduct of the plaintiff-appellant in this case is far from consistent with the condition imposed in paragraph 5 of his father's will. He was the first to violate said condition or provision. Furthermore, by his conduct he led his co-legatees under the will of Julia Ynza to believe that said condition need not be followed, and that consequently, although Julia Ynza died without issue she could dispose of all her property by will; that said disposition by Julia's will was valid and could be carried out, and that he (Jose Ynza) was agreeable to getting only one-fourth of the properties of Julia Ynza situated in Negros Occidental and nothing from the properties situated in the City of Iloilo.

Going back to this fifth paragraph of the will of Dionisio Ynza, it may not be considered as accretion as apparently contemplated by the testator by his employment of the word "accrecera". Under the old Civil Code, Article 982 thereof, there is right of accretion in testamentary succession when two or more persons are called to the same inheritance or to the same portion thereof without special designation of parts, and one of the persons so called die before the testator or renounces the inheritance or be incapable of receiving it. In the present case, the three persons called to the inheritance, namely, Jose, Julia, and Maria Cristina, survived the testator. However, the condition imposed in paragraph 5 of the will of Dionisio Ynza might possibly be regarded as a charge or trust limiting the ownership and disposition of the one-third portion alloted to each of the legatees. The intention of the testator might have been as contended by plaintiff-appellant to prevent the property from going into the hands of strangers and at the same time giving a right to the surviving legatee or legatees the right to receive intact the one-third portion of the legatee who dies without issue. This right may naturally be renounced or waived by any of the legatees who stand to benefit by it; and as to the condition that none of the properties or estate of Dionisio Ynza should go into the hands of strangers, since it is a condition not entirely unselfish, and it is not affected with public interest but on the contrary, is rather against public policy in that it limits the rights of ownership and free disposal of private property, said condition may not be enforced at the instance of the State. It may be enforced only by the legatees who have an interest in its enforcement; but surely not the legatee who from the very beginning not only violated that condition but had renounced his right under the condition imposed by paragraph 5 of Dionisio Ynza, it may be supposed that in carry out the condition that the portion of the

legatee dying without issue should go to his surviving co-legatees, none of the legatees may dispose of his one-third portion in his lifetime; and yet, both Jose Ynza and Julia Ynza not only allowed Maria Cristina to dispose of and sell her legacy of one-third portion, contrary to the provision of the will of their father but they (Jose and Julia) bought that third portion of Maria Cristina. By so doing they violated the wish of their father contained in his will. They also renounced their right to inherit or receive Maria Cristina's one-third portion should she die without issue, a possibility at the time.

After Jose Ynza who had become one-half co-owner with his sister Julia Ynza of the estate left by their father Dionisio Ynza by reason of their purchase of the legacy given to their sister Maria Cristina, he (Jose Ynza) again violated the condition in paragraph 5 of the will by selling his one-half share of the estate situated in the City of Iloilo. Lastly, upon the death of Julia Ynza and upon the disposition of her properties under her will, giving all her properties in Iloilo to the Sisters surnamed STAUB and her properties in Negros Occidental in the proportion of three-fourth to strangers and only one-fourth to Jose Ynza, said disposition again constituted a violation of the condition imposed in the will of their father Dionisio Ynza, and plaintiff-appellant not only consented to said violation but he also agreed to the distribution of the property by accepting his share of one-fourth of the properties of Julia in Negros Occidental and agreed to the project of partition and distribution in favor of other persons. Not only this; in the partition proceedings held in the court of Negros Occidental, first he (Jose Ynza) proposed that instead of partition, all the properties of the estate of Julia in that province be given to one of the legatees who would then pay in cash the portion corresponding to the other legatees. This proposition was also a violation of the provision of the will because the whole estate may go to strangers, contrary to the intention of the testator Dionisio Ynza. Later, he proposed the sale of the estate of Julia Ynza in Negros Occidental and reiterated this proposition in the mandamus proceedings initiated by him in the Supreme Court to sell said properties at public auction, all contrary to the condition contained in paragraph 5 of his father's will. All this conduct and attitude of plaintiff-appellant is hardly consistent with his theory of the enforcement of the provisions of paragraph of his father's will. He led the defendants herein to belie that the disposition of Julia's property according to h will and the distribution among her legatees was and proper. He is now estopped from claiming c taining otherwise. Furthermore, the decision of of First Instance of Negros Occidental ap

project of partition and disposing of the properties involved in accordance with the project of partition has become final and executory. It has now acquired the status of *res judicata*.

But plaintiff-appellant claims that at the time that he agreed to the partition of the properties in Negros Occidental he was unaware of the condition imposed in the will of his father. This contention is hardly tenable considering the fact that he must have been quite familiar with the contents of his father's will (Exhibit A), because he was the very person who had it probated by the court and afterwards he was appointed co-administrator with the executor of the will, and when said executor resigned, plaintiff-appellant was left as the sole administrator and the only one in charge of carrying out the provisions of the will.

In view of the foregoing, denying the petition for injunction, the decision appealed from is hereby affirmed, with costs against plaintiff-appellant.

Parás, C. J., Bengzon, Reyes, Jugo, Bautista Angelo, Labrador, and *Concepcion, JJ.,* concur.

Padilla, J., did not take part.

PABLO, *M.,* concurrente:

El párafo 5.° del testamento del finado Dionisio Ynza es del tenor siguiente: "Es mi voluntad que si alguno de mis legatarios arriba nombrados, falleciere sin sucesión, entonces la parte a él legada acrecerá a la porción o porciones correspondientes a los demás legatarios que le sobrevivan." El demandante alega que, habiendo fallecido Julia Ynza sin sucesión, "ella no puede legar a las aquí demandadas Sofia y Claudia Staub, Maria Luisa Lahorra, Aida Milagros Rodríguez, Alicia y María Rosa Ortega-Ynza las propiedades que había recibido del finado Dionicio Ynza como legataria condicional de éste * * *." Concluye que las propiedades de Julia Ynza deben acrecer su participación y, por eso, pide en su demanda que "todas las propiedades dejadas por la finada Julia Ynza con sus productos sean declaradas de su propiedad en virtud del derecho de acreción." Por carecer de base, esta petición debe desestimarse.

"Los derechos a la sucesión—dice el Código Civil—de una persona se trasmiten desde el momento de su muerte" (Articulo 657) y "La sucesión se defiere por la voluntad [illegible] hombre manifestada en testamento y, a falta de ésto, [illegible] disposición de la ley. La primera se llama testamen[illegible]y la segunda, legítima." También puede trasmi[illegible]a parte de los bienes por voluntad del hombre, [illegible]r disposición de la ley. (Articulo 568, Código [illegible]l.)

Julia Ynza había otorgado un testamento disponiendo de sus bienes; después falleció; su testamento fué legalizado; entonces ella falleció con sucesión testamentaria. No cabe, por tanto, el derecho de acrecimiento que reclama el demandante porque Julia falleció con sucesión.

Algunos confunden la sucesión con la descendencia; son dos cosas distintas. Los descendientes como los legatarios suceden al finado. El descendiente sucede por ley o por testamento, o por ambos; el legatario sucede por testamento: ambos, descendiente y legatario, cuceden a un finado.

En el caso presente, Julia Ynza falleció sin descendiente pero con sucesión. Dionisio Ynza, el testador, dispuso que "si alguno de mis legatarios arriba nombrados, falleciere sin sucesión (fíjese que no dijo falleciere sin descendiente), entonces la parte a él legada acrecerá a la porción o porciones correspondientes a los demás legatarios que le sobrevivan." Si el testador hubiera dispuesto en su testamento que si alguno de sus legatarios falleciere sin descendiente, entonces José Ynza tendría derecho a lo que reclama.

Algunos dicen que el Código de Procedimiento Civil dispone la reversión de bienes al Estado (escheat); por dicha ley—arguyen—el Estado sucede al finado. Esta contención es infundada. El artículo 750 del Código de Procedimiento Civil dice así: "Cuando una persona, dueña de bienes muebles o inmuebles en las Islas Filipinas, muera intestada, sin dejar herederos ni quién legítimamente le suceda, el presidente y el consejo del municipio en donde el difunto tuvo su última residencia, en el caso de haber vivido en las Islas, y en caso contrario los del municipio en donde tenía bienes, pueden presentar al Juzgado de Primera Instancia de la provincia, a nombre del municipio, una solicitud para que se practique una investigación en la materia. El Juzgado señalará entonces el tiempo y lugar para la vista y fallo de la petición, y hará que se publique un anuncio al efecto en un periódico de mayor circulación en la provincia en donde residió últimamente la persona, si hubiera muerto en las Islas Filipinas, y en caso contrario en otro de igual circulación en la provincia en donde tenía bienes. El anuncio manifestará en sustancia los hechos principales contenidos en la solicitud, el tiempo y lugar en que deben comparecer y ser oídos los que reclamen los bienes. Deberá publicarse este anuncio por lo menos durante seis semanas consecutivas, debiendo aparecer la última inserción, por lo menos seis semanas antes del tiempo designado por el juzgado p[ara] hacer la indagatoria."

El municipio no sucede al finado. El muni[cipio] quiere los bienes de un finado si él muere sin dej[ar] deros o personas que le sucedan de acuerdo

en otras palabras, si no deja sucesión. Esta transmisión jurídica se llama reversión—no sucesión—de bienes al Estado. Los bienes dentro de la nación son del Estado; los que fuesen adquiridos por sus habitantes se convierten en propiedad privada; los propietarios pueden disponer de sus bienes; pero, si fallecen sin sucesión, dichos bienes se revierten al Estado. El Estado por medio de su Legislatura encomendó al municipio en donde estuviesen dichos bienes o la última residencia del finado la reclamación de dichos bienes para su reversión.

Por esta razón voto por la confirmación de la decisión apelada.

Judgment affirmed.

[No. L-6665. June 30, 1954]

JOSEFA DE JESUS, PILAR DE JESUS and DOLORES DE JESUS, plaintiffs and appellants, *vs.* SANTOS BELARMINO and TEODORA OCHOA DE JULIANO, defendants and appellees.

1. SALES; VENDEE WITH ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF MISTAKE IN AREA OF LAND BOUGHT, NOT PURCHASER IN GOOD FAITH.—Where the triangular portion of the lot bought by plaintiffs' predecessors-in-interest was erroneously included in the lot bought by one of the defendants, and the latter, having actual or constructive knowledge of such mistake, never claimed any right of ownership or of possession of said portion until after the issuance of the certificate of title in their favor, they can not claim to be purchaser in good faith of the portion in question even if they had paid the consideration tserefor with the sanction of the Bureau of Lands.
2. COMPLAINTS; DISMISSAL BY MOTION; SUFFICIENCY OF MOTION, TESTED BY ALLEGATIONS OF FACTS IN COMPLAINT; TEST OF SUFFICIENCY OF FACTS ALLEGED TO CONSTITUTE CAUSE OF ACTION.—Where the complaint was dismissed not because of any evidence presented by the parties, or as a result of the trial on the merits, but merely on a motion to dismiss filed by the defendants, the sufficiency of the motion should be tested on the strength of the allegations of facts contained in the complaint, and on no other. If these allegations show a cause of action, or furnish sufficient basis by which the complaint can be maintained, the complaint should not be dismissed regardless of the defenses that may be averred by the defendants. The test of the sufficiency of the facts alleged in a complaint, to constitute a cause of action, is whether or not, admitting the facts alleged, the court could render a valid judgment in accordance with the prayer of said complaint.

APPEAL from an order of the Court of First Instance of Laguna. Yatco, *J.*

The facts are stated in the opinion of the court.

Belmonte and Delfin Aprecio for plaintiffs and

Sanchez and *Conrado T. Santos* for defendants

BAUTISTA ANGELO, *J.*:

Plaintiffs brought this action in the Court of First Instance of Laguna to recover a parcel of land containing an area of 7,396 square meters claimed to have been erroneously included in Transfer Certificate of Title No. T–129 of the land records of said province issued in the name of defendant Santos Belarmino.

The principal allegations of the complaint, as amended, are as follows: On July 1, 1910, the Bureau of Lands sold to Timoteo Villegas Lot No. 400 of the Calamba Estate containing an area of 83,579 square meters situated in barrio Parian, Calamba, Laguna, at a price payable in 20 annual installments. Since then, Villegas has been in possession of said lot.

On January 11, 1915, Villegas sold his right and interest in said lot to Petrona Quintero by virtue of a certificate of sale which was duly approved by the Bureau of Lands. The purchase price of the lot was paid in full on September 30, 1931.

Petrona Quintero died in 1933 leaving as heirs her daughters Josefa de Jesus and Pilar de Jesus and her granddaughter Dolores de Jesus, who become the owners by succession of the lot. These heirs are now the plaintiffs herein.

Santos Belarmino, one of the defendants herein, also purchased from the Bureau of Lands on installment basis a portion of the same estate known as lot No. 3211 containing an area of 61,578 square meters which was adjoining Lot No. 400 purchased by Timoteo Villegas. When the cadastral survey of the property covered by the Calamba Estate was ordered, a relocation was made of lot No. 400 and lot No. 3211 with the result that the latter lot was subdivided into Lot No. 3211–N, lot No. 4639, and lot No. 4640, but in making the subdivision a triangular portion with an area of 7,896 square meters which originally formed part of lot No. 400 was erroneously included in the plan and description of lot No. 4639. Said triangular portion was not part of the lot sold by the Bureau of Lands to Santos Belarmino but of the lot sold by said Bureau to Timoteo Villegas.

Without any judicial proceedings or court order, th Register of Deeds of Laguna issued transfer certificat of title No. T–129 covering the lot originally bought from the Bureau of Lands by Santos Belarmino which, as abov stated, erroneously included the triangular portion ref red to in the preceding paragraph, and said transfer tificate of title was issued in the name of Santos Bel as to 21,776 square meters and of Epifania A to 8,000 square meters.

When the two lots mentioned above were sold by the Bureau of Lands to Timoteo Villegas and Santos Belarmino as above stated, the Government did not have any certificate of title specifically covering said lots, its only title being original certificate of title No. 245 which covers the Calamba Estate, so when transfer certificate of title No. T–129 was issued to Santos Belarmino and Epifania Amatorio, the Bureau of Lands did not rely on any title other than certificate of title No. 245 covering the Calamba Estate.

When Epifania Amaterio died, her interest was inherited by Teodora Ochoa de Juliano, who is now in actual possession of the portion of 8,000 square meters which was inherited by her, but defendant Santos Belarmino is in possession of the portion adjoining the triangualr portion now in question and he alone claims right to said triangular portion. Santos Belarmino and his co-defendant Teodora Ochoa de Juliano never exercised any right of ownership nor possession over said triangular portion because the same had always been in the continuous, open, public, notorious, and adverse possession of the predecessors-in-interest of the plaintiffs as exclusive owners thereof.

The complaint further alleges that the herein defendants, or their predecessors-in-interest, knew all the time that the triangular portion in question was not part of the lot sold by the Bureau of Lands to Santos Belarmino, but on the contrary they knew that said portion always formed part of the land sold to the predecessors-in-interest of the plaintiffs, and that defendant Santos Belarmino never claimed any interest in said portion except sometime in March, 1952 when said defendant claimed for the first time that said portion was included in the certificate of title issued in his favor by the register of deeds.

Because of the error above pointed out, plaintiffs pray that they be declared as owners of the triangular portion above adverted to and that certificate of title No. T–129 issued in favor of Santos Belarmino be rectified by excluding therefrom said triangualr portion. And making the Director of Lands as party defendant, plaintiffs also pray that he be ordered to take the necessary steps to have a certificate of title issued in their favor covering the lot originally purchased by their predecessors-in-interest, since the purchase price thereof had been paid in full, and in the event that the triangular portion in dispute be not included in said title, the Director of Lands be ordered to pay to the plaintiffs the amount of ₱7,396 as value thereof, plus the costs of action.

Defendant Santos Belarmino filed a motion to dismiss on substances that, assuming that a portion of land claimed or occupied by plaintiffs' predecessors-in-

interest was erroneously included in the title issued to the defendants when the latter bought a portion of the Calamba Estate owned by the Government, the defendants should not be blamed for that mistake there being no showing that they were instrumental or an accomplice in the commission of that mistake, aside from the fact that the title issued to them as grantees of public land is as indefeasible or incontrovertible as a title issued under the Land Registration Law.

The lower court uphold this contention and in an order issued on October 30, 1952, it held that the complaint does not state a cause of action because the defendants are holders of a certificate of title issued by the Government and as such they should be considered as third parties who acquired the property in good faith and for consideration, and so it dismissed the complaint without pronouncement as to costs. Plaintiffs have taken the present appeal.

It is our opinion that the complaint, as amended, contain facts sufficient to constitute a cause of action or to serve as basis for granting the relief prayed for by plaintiff. A cursory reading of the complaint will show that both Timoteo Villegas, predecessor-in-interest of the plaintiffs and Santos Balarmino, one of the defendants, purchased from the Bureau of Lands two lots each, the former lot No. 400 containing an area of 83,579 square meters and the latter Lot No. 3211 containing an area of 61,578 square meters that lot No. 400 including the triangular portion now in question, and not lot No. 3211, and that since the date of its sale to Timoteo Villegas, the latter had been in possession of lot No. 400, including the triangular portion; that, in a re-survey made of those lots in accordance with the cadastral law, Lot No. 3211 was subdivided into lots 3211–N, 4639, and 4640; that the original area of lot No. 3211 was 61,578 square meters, but after its subdivision into three lots, their total area was increased to 67,808 square meters, or a difference of 6,230 square meters, with the result that the area of lot No. 400 became 76,591 square meters instead of its ori[ginal] area of 83,579 square meters; that defendants kne[w] the time that the triangular portion in question wa[s] cluded in the sale made way back in 1910 by the Bu[reau] of Lands to Timoteo Villegas and not in the sa[le] made the same year by said Bureau to Santos Bela[r]mino, a they likewise well knew that the lot bought b[y] Timot[eo] Villegas, including the triangular portion, had a[l]ways be[en] in continuous, open, public, notorious, and ac[tual] session of the plaintiffs and their predecessors [in] as exclusive owners.

The foregoing facts unmistakably show [that] lot bought by plaintiffs' predecessors-in-i[nterest]

the triangular portion in dispute; (2) that said triangular portion was erroneously included in the lot bought by Santos Belarmino in a re-survey made by the Bureau of Lands years later; (3) that defendants knew, or had actual or constructive knowledge, of such mistake; and (4) defendants never claimed any right of ownership or of possession of said portion until after the issuance of the title issued to them in 1952. Under these facts, it is obvious that defendants cannot claim to be purchasers in good faith of the portion in question even if they had paid the consideration therefor with the sanction of the Bureau of Lands. (Cui & Joven *vs.* Henson, 51 Phil., 606; Legarda & Prieto, 31 Phil., 590; Angeles *vs.* Samia, 66 Phil., 444.) It should be born in mind that the complaint was dismissed not because of any evidence presented by the parties, or as a result of the trial on the merits, but merely on a motion to dismiss filed by the defendants. Such being the case, the sufficiency of the motion should be tested on the strength of the allegations of facts contained in the complaint, and on no other. If these allegation show a cause of action, or furnish sufficient basis by which the complaint can be maintained, the complaint should not be dismissed regardless of the defenses that may be averred by the defendants. It has been said that the test of the sufficiency of the facts alleged in a complaint, to constitute a cause of action, is whether or not, admitting the facts alleged, the court could render a valid judgment in accordance with the prayer of said complaint. (Paminsan *vs.* Costales, 28 Phil., 487; Blay *vs.* Batangas Transportation Co., 45 Off. Gaz., Supp. to No. 9, p. 1.) In our opinion, the allegations of the instant complaint are of this nature, and so the lower court erred in dismissing it.

Wherefore, the order appealed from is set aside. The court orders that this case be remanded to the lower court for further proceedings, without pronouncement as to costs.

Parás, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Labrador, and *Concepcion, JJ.,* concur.

Appealed order set aside.

[No. L-6764. June 30, 1954]

IGNACIO ARNIDO, plaintiff and appellee, *vs.* ALFONSO FRANCISCO, defendant and appellant

1. PUBLIC LAND; MERE OCCUPATION AND PLANTING DOES NOT CONVERT INTO PRIVATE LAND; ACQUISITION IN ACCORDANCE WITH PUBLIC LAND LAW.—The mere occupation of public land by applicant and the planting thereon of improvements do not convert it into a private land, and it may, therefore, be acquired only in accordance with the public land law.

2. ID.; JUDGMENT BASED ON ADMISSION, NOT BINDING ON DEFENDANT WHO IS NOT PARTY TO THE ACTION.—A judgment based on an admission contained in a compromise agreement between the parties can not bind the defendant who was not a party to the action, especially where there is no showing that he has acquired his right fraudulently.

APPEAL from a judgment of the Court of First Instance of Masbate. Santos, *J.*

The facts are stated in the opinion of the court.

Jose M. Angustia for plaintiff and appellee.
Jose L. Almario for defendant and appellant.

LABRADOR, *J.:*

This is an action to recover the title to and possession of a certain parcel of land in the barrio of Kabangkalan, Placer, Masbate, designated as lot 1 in sketch plan attached to Exhibit A, together with damages. The case was presented for decision upon an agreed statement of facts, the most pertinent of which are as follows: The land forms part of the homestead application of one Albaro Vergara, H. A. No. 123545, which was presented in July, 1926 (Exhibit A). The application was approved on June 2, 1931, and given Entry No. 83952. On October 17, 1941, Albaro Vergara sold the land applied for to defendant Alfonso Francisco for ₱800 (Exhibit C), and on August 10, 1948, Vergara assigned his homestead rights thereto (Exhibit B), and after proper investigation and report by a lands officer (Exhibits E and E–1), the assignment was recommended for approval. Thereupon, Alfonso Francisco filed his own homestead application for the land (Exhibit D).

It also appears from the agreed statement of facts that in an action of forcible entry and detainer filed by Arnido against Vergara, which was appealed to the Court of First Instance, it was found by that court that on July 13, 1939, one Joaquin Ferrer sold a land eleven hectares in area to Arnido, and in the same deed of sale, Vergara sold the coconuts and bamboos on the land purchased; that the land had been the object of controversy between the said Ferrer and Vergara before the Bureau of Lands, and that the latter had adjudicated it to Vergara; that Ferrer could not have sold the land, because it was not his, and that Vergara had a better right thereto. The court absolved the defendant from the action (Exhibit F).

It further appears that in September, 1940, Arnido presented an action to recover the title to the property against Albaro Vergara, Civil Case No. 989–R (Exhibit G). [illegible] records of the case were destroyed during the last [illegible] and after its reconstitution in November, 1948, [illegible] recognized Arnido's title to the property in a co[illegible] (Exhibit H–1), as a result of which judgment w[illegible] in favor of Arnido (Exhibit H). The agreed [illegible]

is to the effect that the lands officer who investigated the transfer of homestead rights in favor of Francisco was not aware of this case or of the compromise and judgment. The judgment entered upon the compromise is dated November 27, 1948, and was executed by the sheriff, but defendant herein refused to deliver the property to plaintiff (Exhibits I and I–1).

The trial court held that the land is private land, solely on the alleged ground that it was improved. The alleged improvements consist of some 15 to 35 year old coconut trees and bananas existing thereon even before Vergara applied for it as homestead in the year 1926, but which are admitted to belong to Vergara. Some of the trees must have been planted on the land before Vergara applied for it in 1926. No evidence, however, has been presented that the land was owned by any one prior to Vergara's occupation. But mere occupation of public land and the planting thereon of improvements do not convert it into private land. The mere fact that Vergara applied for it as homestead shows that he occupied it as public land. His admission in the compromise agreement that it belonged to Arnido, which is contrary to his conduct in applying for the land as homestead, is no evidence that the land is private land. The agreed statement also expressly concedes that it is part of H. A. No. 123545. The conclusion of the trial court that it is private land is, therefore, without any foundation in law or fact. We find that the land is not private but public land, and as such it is subject to acquisition in accordance with the public land law.

The other conclusions of the trial court, especially those based on its findings that the land in question is private land, are also incorrect. The judgment in Civil Case No. 989–R, based on an admission contained in a compromise agreement between the parties dated November 27, 1948, can not bind the defendant Francisco, who was not a party to the action. When Vergara made the compromise, he was no longer in possession of the land, as he had sold his rights thereto to Francisco in October, 1941, and executed the deed of assignment of his homestead rights in favor of Alfonso Francisco also on August 10, 1948 (Exhibits C and B); all his acts prejudicial to Francisco's rights can not be binding or effective against the latter. Francisco's purchase of Vergara's rights can not be said to be fraudulent. There is no evidence to prove bad faith, and good faith is presumed.

It is unnecessary to consider the other conclusions of the court, such as the applicability of article 1473 of the h Civil Code and the fraudulent acts of Francisco's or, as these are not material to the decision of the Vergara has been guilty of fraud perpetrated on t him be made to account therefor to the latter,

but in no case may Francisco, a third party, be made to suffer from the effects of his double-dealing.

The judgment entered in the case is hereby reversed, and the action dismissed, and the defendant-appellant Alfonso Francisco absolved from the complaint, with costs against the plaintiff-appellee.

Parás C. J., Pablo Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, and *Concepcion, JJ.,* concur.

Judgment reversed.

[No. L-7020. June 30, 1954]

ALICIA GO, ET AL., plaintiffs and appellees, *vs.* ALBERTO GO, et. al., defendant and appellants

1. PLEADING AND PRACTICE; JOINDER OF PARTIES, APPLICABLE TO BOTH COMPLAINT AND COUNTERCLAIM.—The rule permitting the joining of parties applies with equal force to a counterclaim in view of the similarity of rules applicable to both complaint and counterclaim.
2. ID.; COUNTERCLAIMS; TEST TO DETERMINE JURISDICTION OF JUSTICE OF THE PEACE COURT.—If the claim is composed of several accounts each distinct from the other or arising from different transactions, they may be joined in a single action even if the total exceeds the jurisdiction of the justice of the peace court. Each account furnishes the test. But if the claim is composed of several accounts which arise out of the same transaction and can not be divided, the same should be stated in one cause of action and can not be divided for the purpose of bringing the case within the jurisdiction of the justice of the peace court.
3. ID.; ID.; CLAIM COMPOSED OF SEVERAL ACCOUNTING EACH DISTINCT FROM THE OTHER CAN NOT BE JOINED IN ONE SINGLE CLAIM.—Where the first claim refers to the recovery of an amount arising from the alleged unlawful taking by the plaintiffs of certain furniture and equipment belonging to the defendants while the second and third causes of action arose, not from the illegal taking of the property, but from the alleged unlawful institution by the plaintiffs of the action of ejectment in the Municipal Court, the claims can not be joined in one single claim because they arise from different sets of facts.
4. ID.; ID.; COMPULSORY COUNTERCLAIM TO BE SET UP REGARDLESS OF AMOUNT; CLAIM BARRED IF NOT SET UP.—If a counterclaim arises from, or is necessarily connected with, the facts alleged in the complaint, then that counterclaim should be set up *regardless of its amount.* Failure to do so would render it barred under the rules.
5. ID.; ID.; ID.; COMPULSORY COUNTERCLAIM SET UP, COGNI[illegible] COURT OF FIRST INSTANCE.—The second and third [illegible] defendant being compulsory, and the respective a[illegible] sidered separately, are within the jurisdictio[illegible] ipal court, the Court of First Instance can[illegible] the exercise of its appellate jurisdiction.

APPEAL from an order of the Court of [illegible] Manila. Jose, *J.*

The facts are stated in the opinion of the court

Enrique V. Filamor and *Nicolas Belmonte* for defendants-appellants.

Emmanuel T. Jacinto for plaintiffs and appellees.

BAUTISTA ANGELO, *J.:*

On December 18, 1951, plaintiffs brought an action in the Municipal Court of Manila to recover from defendants the possession of a house situated at 921 Dagupan St., Manila, and the sums of ₱2,000 as damages and ₱200.00 as attorney's fees.

Defendants in their answer set up several special defenses and a counterclaim. The counterclaim was divided into three causes of action as follows: the first is for ₱2,000 representing the value of certain furniture and equipment belonging to defendants and which are claimed to have been taken away by plaintiffs from the house in litigation; the second is for ₱1,000 representing expenses incurred by defendants arising from the falsity of the facts alleged in the complaint; and the third is for ₱500 as attorney's fees arising from the institution of the present action.

The court found for the plaintiffs' after due hearing, ordering defendants to vacate the house in litigation and to pay the costs, but denied the claim for damages both of plaintiffs and defendants on the ground that their amounts are beyond its jurisdiction. The defendants, in due time, perfected their appeal to the Court of First Instances, and after the latter had filed their answer as required by the rules, plaintiffs filed an amended complaint wherein they reiterated their original allegations with some slight modifications. To his amended complaint, defendants filed an amended answer reiterating the counterclaim they had alleged in their original answer which, as previously stated, has been divided into three causes of action involving an aggregate amount of ₱3,500.

Claiming that the amount involved in the counterclaim is beyond the jurisdiction of the Municipal Court, and, therefore, the Court of First Instance cannot act on it in the exercise of its appellate jurisdiction, plaintiffs filed a motion to dismiss under Rule 8, section 1 (*a*), of the Rules of Court. This motion was resisted by defendants, but the court, in its order issued on March 30, 1953, overruled the opposition and granted the motion to dismiss. [illegible] this appeal.

[illegible]nts, in their brief, present the question for de[illegible]in this appeal in the following wise:

[illegible]olved in this appeal is purely a question of law: [illegible] the counterclaim was within the jurisdiction of [illegible]t, and, hence, whether or not the Court of [illegible]ppellate jurisdiction thereon. We respectfully [illegible]l points involved are of paramount importance,

as a definition is sought of the rule which should control, not only in the case at bar, but also in other cases, in the determination of the jurisdictional amount in case there are several causes of action: *whether the jurisdiction is determined by the amount of each cause of action, or by the aggregate amount of the several causes of action;* and whether in compulsory counterclaims the amount thereof is immaterial in the question of jurisdiction." (Italics supplied).

A case that may throw light on the issue before us is A. Soriano & Co. *vs.* Gonzalo M. Jose, et al., 47 Official Gazette 156, decided on May 30, 1950, where various employees brought a joint complaint against their employer in the municipal court to collect a month salary each in lieu of 30 days' notice. The question there decided was whether the jurisdiction of the municipal court is governed by the amount of each or by the aggregate sum of all the claims when there are several plaintiffs suing jointly but have independent causes of action. In that case, we held that "where several claimants have separate and distinct demands against a defendant or defendants, which may be properly joined in a single suit, the claims cannot be added together to make up the required jurisdictional amount; each separate claim furnishes the jurisdictional test." The purpose of the rule permitting the joining of parties is to save unnecessary work, trouble, and expense, consistent with the liberal spirit of the new rules. This ruling, no doubt, applies with equal force to a counterclaim in view of the similarity of rules applicable to both complaint and counterclaim.

The question that now rises is: Can this ruling be applied when there is only one plaintiff or one defendant, or several plaintiffs or defendants but with a common claim, divided into several causes of action involving transactions different one from the other? Stated in another way, does this ruling apply to a counterclaim set up by several defendants which have a common claim against the plaintiff divided into several causes of action for the reason that they arise from transactions one different from the other?

A case which may be considered on all fours with the present case is that of Villaseñor *vs.* Erlanger & Galinger, 19 Phil., 574, wherein this Court, in discussing the test to be considered in determining the jurisdiction of a justice of the peace, laid down the following rule: "When a separate debt is due, it is demandable in a separat[illegible]-tion. Therefore, neither a debtor nor a third part[illegible] plead lack of jurisdiction because the sum of two s[illegible] debts exceeds the amount for which action may be b[illegible] in a court of a justice of the peace. On the other *if a debt is single a creditor may not divide it* purpose of bringing the case within the jurisdict[illegible] justice of the peace." This case is author[illegible]

statement that if a claim is composed of several accounts each distinct from the other or arising from different transactions they say may be joined in a single action even if the total exceeds the jurisdiction of a justice of the peace. Each account furnishes the test. But if the claim is composed of several accounts which arise out of the same transaction and cannot be divided, the same should be stated in one cause of action and cannot be divided for the purpose of bringing the case within the jurisdiction of the justice of the peace.

The same rule obtains in the American jurisdiction. Thus, it has been generally held that "In order that two or more claims may be united to make the jurisdictional amount, they must belong to a class that under the statute will permit them to be properly joined in one suit, and not such as should be made the subject of independent suits; and where two or more causes of action are improperly united in one suit the amounts involved in the different causes cannot be added together so as to make an amount in controversy sufficient to confer jurisdiction on the court in which the suit is brought * * *." But, "in so far as causes of action which may be properly joined are concerned, and which concern all the parties litigants, there is, however, a lack of harmony on the question of whether or not their various amounts should be aggregated in order to determine the amount in controversy for jurisdictional purposes." (21 C. J., pp. 76–78.)

In the last analysis, therefore, the question to be determined is whether the three causes of action into which the counterclaim of the defendants has been divided refer to transactions which should be stated separately, or transactions which have a common origin and should be joined in one cause of action for jurisdictional purposes. An analysis of the facts reveal that the three causes of action of the counterclaim are different one from the other, or at least the first is completely different and arises from a set of facts different from those which gave rise to the other two. The first refers to the recovery of the amount of ₱2,000 arising from the alleged unlawful taking by the plaintiffs of certain furniture and equipment belonging to the defendants; while the second and third causes of action arose, not from the illegal taking of property, but from the alleged unlawful institution by the plaintiffs of the action of ejectment in the Municipal Court, from this it is seen that the first cause of action cannot be joined with the other two in one single claim because they arise from different sets of facts.

Another consideration that should be borne in mind is whether the counterclaim is compulsory or not. If it is, when it arises from, or is necessarily connected with, the matter alleged in the complaint, then that counterclaim

should be set up *regardless of its amount.* Failure to do so would render it barred under the rules. In this particular case, while the first cause of action cannot be considered compulsory because it refers to a transaction completely unrelated with the main claim, the second and the third belong to this class because they necessarily arise from the institution of the main action, viewed in this light, it can be said that the counterclaim of the defendants should be deemed as coming within the jurisdiction of the municipal court, because the respective amounts, considered separately, do not exceed its jurisdiction. From all angles we view the order appealed from it would appear that it is unwarranted and has no legal basis.

Wherefore, the order appealed from is hereby set aside, without pronouncement as to costs.

Parás, C. J., Bengzon, Reyes, Jugo, and *Concepcion,* concur.

Pablo, J., took no part.

PADILLA, *J.,* dissenting:

This is an action of forcible entry and for recovery of ₱2,000 as damages, and ₱200 as attorney's fees. In their answer the defendants sought to recover a counterclaim of ₱2,000, the value of the furniture and equipment allegedly belonging to them and claimed to have been taken by the plaintiffs from the apartment (*accesoria*), the possession of which is sought to be recovered in the action; the sum of ₱1,000, the expense allegedly incurred by the defendants as a result of the action brought against them; and ₱500 for attorney's fees.

The municipal court of Manila rendered judgement ordering the defendant to vacate the apartment but did not award the sums sought to be recovered by both parties on the ground that the same are beyond its jurisdiction. The defendants appeal to the Court of First Instance setting up the same counterclaim they had sought to recover in the municipal court. Plaintiffs move for the dismissal of the counterclaim on the ground that the Court of First Instance has no jurisdiction to try and decide on appeal a counterclaim involving ₱3,500 set up by the defendants in the municipal court and repeated on appeal in the Cou[illegible] of First Instance which the municipal court had re[illegible] to try and decide for lack of jurisdiction. The [illegible] was granted and from the order dismissing the [illegible] claim the defendants have appealed.

In the first place, the defendants should not [illegible] allowed to appeal from the order of dismiss[illegible] counterclaim but should have waited until after [illegible] ment shall have been rendered by the Court of Firs[illegible]

[1] Section 2, Rule 41.

in the forcible entry action.[1] By allowing this appeal the case may be submitted twice to an appellate court when all the issues joined and questions incident thereto raised by the parties should be passed upon and decided in one appeal. Granting, nevertheless, that the defendants may appeal from an order of dismissal of a counterclaim, I disagree with the majority that the amount of each claim arising from different transactions and not the aggregate amount of the counterclaim is determinative of the jurisdiction of the Court.

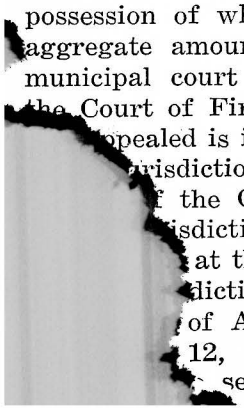
Section 88, Republic Act No. 296, as amended by Republic Act No. 644, provides:

> The jurisdiction of justices of the peace and judges of municipal courts of chartered cities shall consist of:
>
> * * * * * * *
>
> (*b*) Original jurisdiction in civil actions arising in their respective municipalities and cities, and not exclusively cognizable by the Courts of First Instance: and
>
> * * * * * * *

Section 88, Republic Act No. 296, as amended by Republic Act No. 644, provides:

> In all civil actions * * * arising in his municipality or city, and not exclusively cognizable by the Court of First Instance, the justice of the peace and the judge of a municipal court shall have exclusive original jurisdiction where the value of the subject-matter or amount of the demand does not exceed two thousand pesos, exclusive of interest and costs. * * *.

The first claim for ₱2,000, which represents the value of certain furniture and equipment allegedly belonging to the defendants and claimed to have been taken by the plaintiffs from the apartment (*accesoria*), the possession of which is sought to be recovered from the defendants who, plaintiffs claim, forcibly entered upon the same and deprived them of the possession thereof, is not an independent transaction or claim because it arose from the alleged unlawful entry upon the premises by the defendants. Hence, the three items of the counterclaim arose from the alleged unlawful entry by the defendants upon the premises, the possession of which the plaintiffs seek to recover. The aggregate amount being beyond the jurisdiction of the municipal court to hear, try and decide, the order of the Court of First Instance of Manila to which the case appealed is in accordance with law.



risdiction of the municipal court is limited where- the Court of First Instance is general. The isdiction of the former should not be enlarged at the expense of that of the latter. Enlarg- diction of the municipal court would be illegal. of A. Soriano y Cia. *vs.* José, 47 Off. Gaz., 12, 156, cited by the majority is not in several employees having each a cause of

action against the employer were allowed to join in one suit brought in the municipal court of Manila, although the aggregate amount of the several causes of action constituting the demand was beyond the jurisdiction of the municipal court, because the amount of each cause of action which is less than ₱2,000 determines the jurisdiction of the court, and the joinder of such parties is permitted by section 6, Rule 3. In other words, if the several employees having a claim against the employer were not permitted to join in one suit by the above mentioned rule, each would have to bring a separate action and the action of each would be within the jurisdiction of the municipal court because the amount claimed by each plaintiff would not exceed ₱2,000 exclusive of interest and costs.

The rule in the case of Villaseñor *vs.* Erlanger & Galinger, 19 Phil., 574, invoked by the majority does not support its opinion. There the action was one of interpleading brought by the sheriff of Tayabas for determination as to who among the defendants were entitled to the funds he had in his possession. The question of jurisdiction of the justice of the peace court of Manila was not the *lis mota* but rather the question of preference of credits. There were two actions brought by Ruiz y Rementería against Manuel Abraham and two judgments rendered by the justice of the peace court of Manila in favor of Ruiz y Rementería—one for ₱572.91 and the other for ₱304.73—both amounts being within the concurrent jurisdiction of the justice of the peace court and the Court of First Instance of Manila. This court in reversing the judgment of the trial court, which disallowed the two credits of Ruiz y Rementería ordered by the justice of the peace court of Manila in two judgments to be paid to Ruiz y Rementería correctly ruled that such credits were allowable.

For these reasons, the order appealed from should be affirmed, with costs against the appellants.

LABRADOR, *J.*:

I concur in this dissent.

Appealed order set aside.

[No. L-7142. June 30, 1954]

JUAN T. DAVID, petitioner, *vs.* THE HONORABLE JU[DGE] RENZO C. GARLITOS of the Court of First Ins[tance] Nueva Ecija, and the Testate Estate of Vice[nte] represented by its executor TAGAKO[PA], respondents.

JUDGMENTS; EXECUTION BY MOTION OR BY INDEPENDE[NT] PRESCRIPTION OF ACTION TO ENFORCE JUDGMENT.—[The] of action to enforce judgment can only operate [to]

a right that is enforceable; or in the case of a final judgment, when there is no legal impediment to its execution. Here, although petitioner had a final judgment in his favor, still, despite his efforts he failed to secure execution thereof because of the refusal of the trial court to grant it and because there was another suit filed which rendered the execution of said final judgment conditional and uncertain. Hence, prescription would not lie.

ORIGINAL ACTION in the Supreme Court. Certiorari with mandamus.

The facts are stated in the opinion of the court.

Petitioner for his own behalf.
Ricardo Summers for the respondents.

MONTEMAYOR, *J.*:

This is a petition for certiorari with mandamus to compel the Judge of the Court of First Instance of Nueva Ecija to issue the corresponding writ of execution of the decision of said court in Civil Case No. 8726, dated December 5, 1941. The facts involved are as follows.

KWONG AH PHOY & CO., INC., a domestic corporation, on July 11, 1939, secured from the Bank of the Philippine Islands an overdraft accommodation for a sum not exceeding ₱25,000 with interest of 8 per cent per annum. To secure payment, a first mortage was constituted on a land located in Cabanatuan, Nueva Ecija, covered by Transfer Certificate of Title No. 2970, together with all its buildings and improvements. The corporation made use of and exhausted said overdraft accommodation, and including certain advances made by the Bank the total obligation as of September 30, 1941, amounted to ₱30,822. For failure to pay said obligation the Bank filed Civil Case No. 8726 of the Court of First Instance of Nueva Ecija to foreclose the mortgage.

In the meantime, in Civil Case No. 5282 of the same court the corporation was declared insolvent as of September 29, 1939. That was the reason why the judgment secured by the Bank on December 5, 1941, in the foreclosure proceed-
s, Civil Case No. 8726, was against the assignees of the
oration, sentencing them to pay to plaintiff Bank
822 at 8 per cent per annum from September 30, 1941,
fully paid, plus the sum of ₱3,082.20, by way of attor-
s fees, and costs, giving said assignees 90 days within
h to pay the money judgment, in default of which
, the property mortgaged would be sold at public

ust 24, 1944, petitioner Juan T. David acquired
laintiff Bank all its rights and interests in the
ned judgment in Civil Case No. 8726. Later,
hts and interests of the insolvent corporation
signment, acquired by Atty. Vicente Sotto who
its liabilities and obligations, and he deposited

with the court the sum of ₱106,097.25 in Japanese military notes to pay and settle all approved claims against the insolvent as well as the sum of ₱42,614.83 to pay Juan T. David who, as already stated, acquired the mortgage credit of the Bank. By order of the court in the insolvency proceedings dated October 9, 1944, the assignment and the deposit were approved. We reproduce said order:

"ORDER

"The motion of Atty. Vicente Sotto, dated October 2, 1944, having been submitted, and

"(1) Considering that this Court, in the Order under date of September 16, 1944, has approved the assignment and transfer of all the rights and interests of this insolvency in favor of Atty. Vicente Sotto, as had been proposed by the assignees and upon payment of all the obligation and liabilities of the same by the purchaser;

"(2) Considering that the said purchaser has deposited with the Clerk of this Court the total amount of all the claims and incumbrances against this insolvency; and

"(3) Considering that no opposition whatever had been filed against the above mentioned motion of the purchaser;

"THEREFORE, this Court orders as follows:

"(*a*) The purchaser Vicente Sotto is hereby declared absolute owner of all the property, real and personal rights, interest and accounts receivable of the insolvent Estate of Kwong Ah Phoy & Co. Inc.;

"(*b*) The clerk of this Court is hereby instructed to deliver to the assignees of this insolvency, Messrs. Eufemio Si-Uy and Andres L. Navallo Sr. the sum of ₱106,097.25 deposited by the purchaser, in order to pay and settle all the approved claims against this insolvency, as well as the sum of ₱42,614.83, likewise deposited by the purchaser to Mr. Juan T. David, sobrogee of the mortgage credit of the Bank of the Philippine Islands;

"(*c*) Releasing the surety firms, Far Eastern Surety and Insurance Co. Inc. and the China Surety & Insurance Co. from their liability under the bonds executed by them in favor of Kwong Ah Phoy & Co. Inc.;

"(*d*) The assignees are, furthermore, instructed to deliver immediately to the purchaser Vicente Sotto all the property, real and personal rights and interests, and accounts receivable, as well as all and whatever funds, books of account, documents, titles, and papers of this insolvency; and

"(*e*) This insolvency is finally declared definitely closed."

On November 7, 1944, the assignees delivered to Atty. Vicente Sotto possession of the properties of the insolvent corporation.

On November 11, 1944, the two assignees through Atty. Tagakotta Sotto, son of Atty. Vicente Sotto, went to the house of Juan T. David in Manila and delivered to him cashier's check of the Philippine National Bank in amount of ₱42,614.83 representing the accumulated bala of the mortgage credit foreclosed by the Bank assigned to David, accompanied by a letter statin offer of payment was being made in compliance order of the court in the insolvency proceedings, same time asking for the delivery of the Torren

the mortgaged property and the execution of a Quit-Claim Deed. After reading the letter, Mr. David returned to Tagakotta both letter and check and by his conduct showed that "he refused to allow the redemption of the mortgage with Japanese war notes, according to Tagakotta, but according to David, he returned them to said attorney with the request that he hand them over to his counsel, Mr. Claudio Teehankee, giving his address". Because of this, the cashier's check was deposited in court and Atty. Vicente Sotto together with the two assignees in the insolvency proceedings brought an action against David in the Court of First Instance of Nueva Ecija, Civil Case No. 193 to compel him to receive said cashier's check and to execute a deed of cancellation of the mortgage, and for ₱500,000 damages and costs.

On August 16, 1945, Juan T. David filed a petition in Civil Case No. 8726 (foreclosure proceedings) asking for the sale of the property mortgaged. Atty. Vicente Sotto opposed the petition. In an order dated October 25, 1945, the lower court deferred action on said petition until Civil Case No. 193 shall have been finally decided, at the same time, calling the attention of the parties to the fact that the records of said Civil Case No. 193 were lost during the war and the necessity for their reconstitution. The records were later reconstituted under Civil Case No. 193–J.

Subsequently, Atty. Vicente Sotto died, and the court allowed his son Atty. Tagakotta Soto, executor of his father's testate estate to be substituted as party-plaintiff in said Civil Case No. 193–J.

On November 3, 1949, judgment was rendered in Civil Case No. 193–J holding that the consignation made by Atty. Vicente Sotto was invalid. The decision gave him 60 days within which to pay David ₱42,614.83 with interest at 8 per cent per annum from October 1, 1944, and David was given 15 days after payment within which to execute the deed of cancellation of the mortgage debt. On appeal by plaintiffs to the Court of Appeals, said Tribunal in a lengthy decision held not valid the tender of payment with the cashier's check for ₱42,614.83, and declared the consignation of said check in court, as not made in accordance with law, and affirmed the trial court's decision. The petition filed by plaintiffs-appellants before the Supreme Court to review the decision of the Court of Appeals was denied for lack of merit.

Thereafter, David filed a petition dated July 15, 1953, Civil Case No. 8726 of the Nueva Ecija court (foreclosure proceedings) asking for the sale of the mortgaged property nce with the decision of that court of December view of the final decision rendered in Civil Case . Atty. Tagakotta Soto as executor of the te- te of his father Vicente Sotto opposed the petition

on the ground of prescription. The Nueva Ecija court presided over by respondent Judge Lorenzo C. Garlitos, denied the petition for execution saying in part: "Unluckily, however, he (David) can no longer take advantage of the decision rendered in this case, because the same has totally lost its legal force and effect for having already prescribed." David's motion for reconsideration of said order of denial was denied by order of September 14, 1953. David has now filed this petition for certiorari with mandamus against respondent Judge and the testate estate of Atty. Vicente Sotto, as already stated, to compel the respondent Judge to issue the corresponding writ of execution of the final decision in Civil Case No. 8726.

The theory of respondents in resisting the present petition for certiorari with mandamus and in maintaining the order of respondent Judge denying the petition for execution in Civil Case No. 8726 is built on Rule 39, section 6, of the Rules of Court which reads as follows—

"SEC. 6. *Execution by motion or by independent action.*—A judgment maybe executed on motion within five years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action."

and on the rule of prescription contained in Section 43 of the Code of Civil Procedure and Article 1144 of the new Civil Code, to the effect that an action to enforce a judgment or decree must be brought within 10 years from the time said decree or judgment has become final and executory. Respondents equally maintain that the mere filing of the petition of a writ of execution of David (Annex I) in Civil Case No. 8726 on August 16, 1945 asking for the sale of the property mortgaged in accordance with the decision in said case rendered on December 5, 1941, and even the order of the lower court October 25, 1945, deferring action upon said petition until Civil Case No. 193–J shall have been finally decided did not suspend the running of the two periods of prescription—the first period of five years within which to execute the judgment and the second period of ten years within which to file an action on the basis of said judgment. In support of this contention they cite the case of Compañia General de Tabacos *vs.* Martinez, 17 Phil., 160, and other Philippine cases decided by this Court in accordance with the Martinez case, holding that the issuance of an injunction restraining the execution of a judgment does not suspend the running of the perio[illegible] prescription. They claim that if an injunction rest[illegible] an execution does not suspend the running of the [illegible] of prescription, with more reason the mere filing [illegible] *tion for* execution and an order merely de[illegible] on said petition should not and will not suspe[illegible] of the period of prescription.

The later case of Demetriou and Madrid *vs.* Lesaca and Chunaco, promulgated on March 31, 1936, published in 63 Phil., 112, however, qualified the doctrine laid down in the cases cited by the respondent, particularly the case of Compañía General de Tabacos *vs.* Martinez, in the sense that the statute of limitations is not suspended where an injunction suit brought by a judgment debtor is only to restrain sale of his home place but not asking for an order restraining the issuance of an execution. The facts in the Demetriou case briefly stated are the following. Chunaco obtained a final judgment against Demetriou for a sum of money with interest and costs. A writ of execution was issued but was returned unsatisfied; a second writ of execution by virtue of which a levy was made on certain properties claimed by Aurea A. Madrid, wife of Demetriou was issued. Aurea filed a complaint in intervention claiming those properties as paraphernal, and she obtained a writ of preliminary injunction enjoining Chunaco and the Sheriff from selling at public auction said properties claimed by her. Subsequently, judgment was rendered on her complaint in intervention, declaring said properties to be paraphernal of Aurea. A third writ of execution was issued on October 10, 1934, more than five years from the time the judgment in the original case between Chunaco and Demetriou became final. This Court held that the third writ was invalid because issued beyond the 5–year period, for the reason that as already stated, the injunction obtained by Aurea did not prohibit the execution of the judgment and so did not suspend the running of the 5–year period. Explaining its stand and the reason for qualifying the doctrine laid down in the case of Compañia General de Tabacos *vs.* Martinez, this Court said:

"The decision of the states of the Union are conflicting on this point. Those of California, where sections 443 and 447 of our Procedural Law were taken, hold that the five-year period within which a judgment may be enforced is not suspended by the issuance of an injunction restraining the execution of the judgment. (Solomon *vs.* Maguire, 29 Cal.; 227, 237, Rogers *vs.* Druffel, 46 Cal., 654; Cortez *vs.* Superior Court, 86 Cal., 274, 278; Buell *vs.* Buell, 92 Cal., 393, cited with approval in Compañia General de Tabacos *vs.* Martinez, 17 Phil., 160; Arambulo *vs.* Court of First Instance of Laguna and Municipality of Santa Rosa, 53 Phil., 302). The contrary view prevails, however, in Mississippi (Work *vs.* Harper, 31 Miss., 107, 109); Georgia (Rogers *vs.* Smith, 98 Ga., 788, 789); and New York (Underwood *vs.* Green, 56 N. Y., 247, 248). In our opinion the better [illegible] is that announced in 21 A.L.R., 1059, citing Serles *vs.* Cromer [illegible]a., 426), a case similar to the present, where it was said:

"An injunction suit brought by a judgment debtor to restrain [illegible] of his home place, but not asking for an order restraining issuance of execution, is not such a legal proceeding as [illegible]he statute of limitations under a statute providing [illegible]e during which the right to sue out execution on a [illegible]spended by the terms thereof or by legal proceed-

> ings shall be omitted in computing the period of limitations prescribed.'
>
> "It appears from the record that the injunction issued in civil case No. 4997 was not to enjoin the execution of the judgment, but only to have the creditor Ciriaco Chunaco and the sheriff Max. M. Romero 'abstain from selling at public auction the properties described in the complaint * * * during the pendency of this case and until further order of the court.' It is manifest that the issuance of said injunction at no time prevented Ciriaco Chunaco from executing his judgment otherwise than by making a public sale of the properties claimed by Aurea A. Madrid. * * *."

Applying the legal principle enunciated in the Demetriou case, we agree with petitioner David that his petition for execution filed on August 16, 1945, and the order of the trial court deferring action upon it until Civil Case No. 193–J shall have been finally decided, suspended the running of the period of prescription. As he correctly claims, prescription can only operate when there is a right that is enforceable; or in the case of a final judgment, when there is no legal impediment to its execution; but when the enforceability of a final decision is suspended by court order or becomes conditional and uncertain, prescription may not operate. In his case (Civil Case No. 8726) although he had a final judgment in his favor, despite his efforts he failed to secure execution thereof not only because of the refusal of the trial court to grant it, but also because the suit filed by Atty. Vicente Sotto, Civil Case No. 193–J, based on his alleged tender of payment and the subsequent consignation in court of the cashier's check in an amount calculated to satisfy the final judgment, rendered the execution of said final judgment conditional and uncertain. If Atty. Sotto in his suit obtained final favorable judgment declaring his tender of payment and his consignation of the cashier's check, valid, then the final judgment in favor of David will have been immaterial and of no avail. That was the very reason why the trial court deferred action on David's petition for execution dated August 16, 1945, and surely, failure to execute said judgment may not properly be laid at anyone's door, much less at that of David. It was only after the final judgment in the case of Atty. Vicente Sotto against David (Civil Case No. 193–J) that the judgment in Civil Case No. 8726 regained its finality and executory character. On this basis, and considering the suspension of the running of the period of prescription, we find that David filed his petition for execution on July 15, 1953, within the five-year period as provided for in [illegible] 39, section 6, Rules of Court, and that respondent [illegible] improperly and unlawfully denied the same on [illegible] of prescription.

In view of the foregoing, the petition is he[illegible] the order of respondent Judge denying t[illegible]

execution is hereby set aside and he is hereby directed to issue the corresponding writ of execution, with costs.

Paras, C. J., Pablo, Bengzon, Padilla, Reyes, Jugo, Bautista Angelo, Labrador, and *Concepcion, J J.* concur.

Petition granted and appealed order is set aside.

[Nos. L-6675 y L-6681. Mayo 26, 1954]

BIENVENIDO E. DOLLENTE, recurrente, *contra* EL PUEBLO DE FILIPINAS, recurrido

1. DERECHO PENAL; RESPONSABILIDAD CRIMINAL O CIVIL; DEPOSITO NO DEVUELTO.—Si el acusado dispuso de las cantidades que los siete denunciantes depositaron en su poder para ser utilizadas como pago de los *jeeps* prometidos por el acusado, pero *éste no* entregó los *jeeps* ni devolvió los depósitos, la responsabilidad es criminal y no civil.
2. ID.; RESPONSABILIDAD DEL ACUSADO O DE LA CORPORACIÓN QUE LLEVA SU NOMBRE.—Si el acusado fue el que dispuso de las cantidades depositadas y no la corporación que lleva su nombre, el único responsable es él y no la corporación.
3. ID.; PENAS; PENA MÁXIMA EN CASO DE SENTENCIA CONDENATORIA EN CUATRO O PAS ASUNTOS.—Si un acusado tiene que sufrir más de tres sentencias, no puede imponérsele una pena más del triple de la pena más severa imponible a él por los varios delitos cometidos.

APELACIÓN, por medio de *certiorari,* contra una sentencia del Tribunal de Apelaciones.

Los hechos aparecen relatados en la decisión del Tribunal.

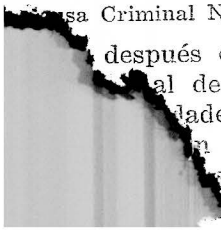
Miraflor & Subido por el demandado y apelante.

Procurador General Juan R. Liwag y Procurador Agusto M. Luciano por el demandante y apelado.

PABLO, *M.:*

El Juzgado de Primera Instancia de Manila condenó al acusado en cada una de las siete causas a cuatro meses y un día de arresto mayor y a devolver a los denunciantes las cantidades que aparecen en la siguiente tabla:

Causa Criminal No. 714 por P2,400 a Bonifacio Vistan
Causa Criminal No. 722 por 700 a Juan Cámara
Causa Criminal No. 1189 por 1,450 a Nicanor Soriano
Causa Criminal No. 1516 por 1,000 a Domingo del Rosario
Causa Criminal No. 2464 por 1,000 a Maximino Pinpin
Causa Criminal No. 5050 por 1,400 a Maximo Picar
Causa Criminal No. 6078 por 2,750 a Arsenio Reyes



después de la condena y pendientes las causas en al de Apelación, el acusado restituyó parte de lades. Dicho Tribunal de Apelación condenó n cada una de las siete causas a un mes y sto mayor a un año y ocho meses de prisión a restituir a los denunciantes las siguientes

cantidades: ₱1,900 a Bonifacio Vistan, ₱650 a Nicanor Soriano, ₱500 a Domingo del Rosario, ₱250 a Maximino Pinpin, ₱650 a Máximo Picar y ₱1,410 a Arsenio Reyes. En la causa criminal No. 722 la cantidad entregada al acusado era de ₱2,000 y no ₱700: se le condenó por el Tribunal de Apelación a restituir al denunciante ₱2,000.

En recurso de certiorari el recurrente pide la revisión de la decisión del Tribunal de Apelación, apuntando los siguientes errores:

"I. The Court of Appeals erred in not holding that the transactions in question gave rise to civil but not criminal liability.

"II. The Court of Appeals erred in not holding that the remedy of the aggrieved parties is against the corporation and not against the petitioner whose personality is independent of that of the corporation.

III. The Court of Appeals erred in not holding that the principal stockholder of a duly registered corporation cannot be held responsible for the act of misappropriation or conversion of said compartment in the absence of a specific provision of law to that effect.

"IV. The Court of Appeals erred in not applying the 3-fold rule to the penalties imposed on the accused."

El recurrente sostiene que no ha cometido el delito de estafa porque no recibió de los denunciantes las cantidades especificadas en la tabla como Bienvenido E. Dollente, sino como Presidente y Administrador General de B. E. Dollente & Co., Inc. La acción que tienen los denunciantes, contiende el recurrente, es la rescisión del contrato o el cumplimiento del mismo—que es acción civil y no criminal—porque lo que ha habido entre ellos y el acusado era la venta de *jeeps* con pagos parciales a cuenta de sus precios.

Este Tribunal no revisa las pruebas; solamente decide si la ley ha sido aplicada debidamente. Las conclusiones de hecho del Tribunal de Apelación son las siguientes:

"It appears that during the period from May, 1945, to June, 1946, the appellant, a certified public accountant, was a major in the Philippine Army on duty in the Finance Service as assistant auditor. On January 31, 1946 he organized a private corporation for the purpose of engaging in general merchandising, more particularly in the buying and selling of surplus jeeps, under the name of B. E. Dollente & Co., Inc., duly registered with the Securities and Exchange Commission on March 6 of the same year and with offices at his own residence at 116 Requesens St., Manila. The major portion of the ₱50,000 capital of the corporation, of ₱10,000 was subscribed for, and ₱2,500 paid up, was owned appellant and he was the President and General Manage corporation.

"Soon after its incorporation, said company st in the local newspapers the sale of surplus jeep prices and priority to servicemen and war ve customers flocked to its offices, among them ap

dinates in the Finance Service of the Philippine Army. The evidence discloses that *cash deposits were required from and were made by the prospective buyers.* Upon the promise that the vehicle ordered by them would be delivered in two or three weeks. Business was so brisk that, in a short time, the cash deposits collected in this manner reached the total amount of ₱272,848.21. *Several purchasers,* among them the complainants in the cases before us, not only failed to receive the promised vehicles but also to *have all or part* of their deposits refunded, as promised. This gave rise to the cases under consideration.

* * * * * * *

"Upon the main point at issue, the evidence of record clearly shows that, because the corporation carried appellant's name, because its offices were located in his own residence, because he owned most of the stock thereof and he was its President and General Manager, *all the prospective purchasers of jeeps,* the herein complainants among them *dealt* with the *appellant direct* and *entrusted* their money *directly to him.*

"Upon the other hand, the record discloses that, at least in the case of complainant Domingo R. Del Rosario (Crim. Case No. 1518), the appellant personally proposed in writing *to refund his deposit.* In fact, appellant himself admitted in this connection that he had *refunded other deposits* when he received his backpay and even went as far as to ask his wife to sell all their personal properties "to clear my name from this trouble."

* * * * * * *

"* * * the informations filed allege and the prosecution evidence clearly shows that he received the cash deposits made by the different complainants in trust and under the express obligation on his part of buying and delivering the vehicle or vehicles sought to be purchased by the complainants or of returning the said money to the depositors if unable to do so, within a period of time agreed upon in each case, it having been proven likewise that notwithstanding repeated demands for the refund of said deposits the appellant had failed to do so. * * *. This appropriation and conversion has been conclusively established by the eloquent fact that appellant was not able to refund the deposits when demand therefore was made upon him. In this connection he was not able to give any satisfactory explanation as to what had become of the money of the complainants. If it was lost as a result of his business transactions or if he used it to buy vehicles subsequently delivered to others or to refund the deposits of other parties, then the employment of complainants' money for those purposes constitutes misappropriation and conversion thereof in the absence of proof that appellant was duly authorized to do so."

De lo transcrito se ve que el acusado no recibió las cantidades entregadas por los denunciantes como pago en una transacción de venta de *jeep,* sino como depósito, ni las recibió en su concepto de Presidente y Administrador General de la B. E. Dollente & Co., Inc., sino personalmente. denunciantes habían comprado ya los *jeeps* con el que habían entregado, entonces no hubiera dicho l de Apelación que "the evidence discloses that were required from and were made by the ers." *Deposit* no es *payment;* el comprador ve buyer." Si la transacción habida entre

los denunciantes y el acusado era la venta de *jeeps,* entonces el Tribunal de Apelación no hubiera empleado las siguientes palabras: "cash deposits were required * * * from * * * the prospective buyer." Si el acusado actuaba en dichas transacciones como Presidente y Administrador de la B. E. Dollente & Co., Inc., el Tribunal de Apelación hubiera expresado así y no hubiera dicho que los denunciantes "dealt with the appellant direct and entrusted their money directly to him." Si, como reclama el acusado, la transacción habida entre él, como Presidente de la B. E. Dollente & Co., Inc., y los denunciantes era una venta de *jeeps,* entonces él no hubiera "personally proposed in writing to refund their deposits." Esta última actuación del acusado no es consecuente con su teoría de que había vendido *jeeps* como Presidente y Administrador General de la B. E. Dollente & Co., Inc. a los denunciantes.

No es aplicable a los sieté asuntos la causa invocada por el acusado de People *vs.* Ma Su, G. R. No. L–3872, en que este Tribunal dijo; "En la transacción habida entre el acusado y Lino Casabar no hay tal fideicomiso. La cantidad de ₱1,600 que Lino Casabar entregó al acusado es, según la querella, 'part payment' del precio de un molino de arroz. Se trataba de una venta con un pago parcial. El dinero en esta venta del molino de arroz entregado por Lino Casabar, ya había dejado de ser propiedad de éste; ya era de la propiedad del vendedor. No era un depósito; era pago parcial. En virtud de este contrato, Casabar tenía derecho a exigir del acusado la entrega del molino dentro del plazo estipulado, pagando el saldo del importe no pagado aún. Si el acusado dejaba de cumplir su obligación de entregar el molino, Casabar podía pedir (*a*) la rescisión del contrato o (*b*) el cumplimiento del mismo; esto es, que se le devolviese por el acusado los ₱1,600, pago parcial, o que se le condenase a entregar el molino. Lo que procede es una acción [illegible] y no una acción criminal." En la causa citada la cantidad de ₱1,600 era pago parcial (part payment) del [illegible] del molino; en las siete causas presentes las cantidades entregadas por los denunciantes eran depósitos para [illegible] obtener *jeeps,* y no pagos de los *jeeps;* no era entrega [illegible] precio del *jeep* por los compradores, sino depósito en poder del acusado efectuado por los "prospective buyers."

El artículo 315, párrafo 3 (*b*), del Código Penal Revisado es la disposición penal infringida. El acusado [illegible] de las cantidades que los siete denunciantes depositaron en su poder para ser utilizadas como pago de los *jeeps* que el acusado ni entregó los *jeeps* prometidos, ni devolvió los depósitos. El Tribunal de Apelación no incurrió en los tres primeros errores que se le atribuye por el acusado, según dicho tribunal, fué el que dispuso [illegible]

depositadas y no la corporación B. E. Dollente & Co., Inc. El único responsable, por tanto, es él y no la corporación.

El acusado contiende que erró el Tribunal de Apelación al imponerle la pena, en cada una de las siete causas, de un mes y un día de arresto mayor a un año y ocho días de prisión correccional, con infracción del artículo 70 del Código Penal Revisado. Está bien fundada la contención del acusado. Dicho artículo, tal como fué enmendado por la Ley No. 217, dice, en parte, así:

"Notwithstanding the provisions of the rule next preceding, the maximum duration of the convict's sentence shall not be more than threefold the length of time corresponding to the most severe of the penalties imposed upon him. No other penalty to which he may be liable shall be inflicted after the sum total of those imposed equals the said maximum period."

Aplicando esa disposición, este Tribunal dijo:

En Pueblo contra Peñas, 68 Phil., 533, "* * * if an accused has to serve more than three sentences, he cannot be sentenced to more than three times, the most severe penalty that may be imposed upon him for the various crimes he might have committed."

En People *vs.* Concepcion, 69 Phil., 58, *supra*, "* * * 'the maximum duration of the convict's sentence shall not be more than threefold the length of time corresponding to the most severest of the penalties imposed upon him,' * * *."

En People *vs.* Concepción, 68 Phil., 530, "* * * the accused should not serve a penalty of imprisonment for more than threefold the length of time corresponding to the severest of the penalties imposed upon him in all of said cases * * *."

En Bagtas y Alejandrino contra Director de Prisiones, 47 Off. Gaz., 1743, "Under article 70 of the Revised Penal Code the maximum duration of the convict's sentence cannot exceed threefold the length of time corresponding to the most severe of the penalties imposed upon him, and the application of this rule does not preclude his enjoyment of the deduction from his sentence of 5 days for each month of good behavior as provided in paragraph 1 of article 97 of said Code."

En Aspra *vs.* Director of Prisons, 47 Off. Gaz., 4610, concedió el recurso de habeas corpus porque el preso mpo de la presentación de su solicitud ya había sufrido ón de más del triple de la pena más grave impuesta en las varias causas.

Según el Tribunal de Apelación, no concurre ninguna rcunstancia modificativa; debe imponerse, por tanto, la pena en su grado medio. Según el artículo 315, párrafo 3.° del Código Penal Revisado en relación con la ley de de erminada, en cualquiera de las siete causas, la ible es la de un año y un día, como mínima, ocho meses y un día de prisión correccional cesorias, como máxima. Triple de esta pena: y cinco días [1] y a cinco años y tres días. Esta tal que debe imponerse al acusado en las

olución de 21 de Junio de 1954.

siete causas y debe confirmarse la decisión apelada en cuanto a la restitución de las cantidades estafadas.

Díctese sentencia a tenor de lo resuelto con costas.

Parás, Pres., Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo y *Labrador, MM.*, están conformes.

Con modificación de la pena, se confirma la sentencia.

[Nos. L–1981 y L–1982. Mayo 28, 1954] [1]

EUGENE ARTHUR PERKINS, demandante y apelado, *contra* BENGUET CONSOLIDATED MINING COMPANY Y OTROS, demandados; BENGUET CONSOLIDATED MINING COMPANY, demandada y apelante.

EUGENE ARTHUR PERKINS, demandante y apelado, *contra* BENGUET CONSOLIDATED MINING COMPANY Y OTROS, demandados; BENGUET CONSOLIDATED MINING COMPANY, peticionaria y apelante.

1. SENTENCIAS; EFECTO DE SENTENCIA DE UN TRIBUNAL EXTRANJERO CONTRA UNA DECISIÓN DEL JUZGADO EN FILIPINAS.—La doctrina de Coke (Coke on Littleton, 3255) "that where there are two conflicting judgments on a claim or demand . . . The two judgments neutralize each other and both parties may assert their claims anew," no es aplicable al caso presente. Los litigantes, ya sean naturales, ya extranjeros, deben respetar las decisiones de los tribunales de Filipinas; pero si optaran por acudir a un tribunal extranjero, pidiendo un remedio incompatible con la disposición de la sentencia obtenida en Filipinas y obtuviesen una decisión adversa, no se les debería permitir que repudiaran luego la del tribunal extranjero y pidieran el cumplimiento de la decisión del tribunal de Filipinas que ellos habían abandonado. Permitirles litigar de esa manera es contrario al orden e interés público en Filipinas porque perturba la ordenada administración de la ley.
2. ID.; INCOACIÓN DE NUEVO ASUNTO EN EL EXTRANJERO, ABANDONANDO LA DECISIÓN DE UN TRIBUNAL DE FILIPINAS.—"One who subjects himself to the jurisdiction of a Court, even where he would not otherwise be subject to suit, becomes subject to any valid claim asserted against him directly relating to the subject matter of his voluntarily initiated proceeding." (Hoxsey *vs.* Hoffpauir, 180 F. 2d 84).
3. ID.; ID.; NO ES APLICABLE EL ASUNTO QUERUBIN CONTRA QUERUBIN (L–3693).—Es inaplicable la doctrina de Querubin *contra* Querubin (L–3693, Julio 29, 1950) en la presente causa. En el caso presente, la decisión del Tribunal de Nueva York no ha sido obtenida por la Sra. de Perkins a espaldas del demandante; al contrario, esa decisión fue dictada en virtud de la demanda enrabiada por el Sr. Perkins; él fue al actor, al iniciador de la causa en que se discutió por segunda vez la propiedad de 24,000 acciones y, abandonando la decisión del Tribunal de Manila, pidió que dichas acciones fuesen declaradas de su exclusiva propiedad. Después de una vista en que ambas partes habían tenido amplia oportunidad de ser oídas y

[1] Entry of final judgment, June 7,

tencia declarando a la Sra. de Perkins dueña de las acciones. Esta sentencia es final entre los dos. El demandante no tiene derecho a impugnar dicha decisión dictada en un asunto iniciado por él ante el Tribunal de Nueva York en que ellos, demandante y demandada, son ciudadanos.

4. ID.; ID.; DISTINCIÓN ENTRE LA EJECUCIÒN DE SENTENCIA EXTRANJERA Y LA INTERPOSICIÓN DE LA MISMA COMO DEFENSA DE "RES-JUDICATA".—No debe confundirse la ejecución de una sentencia extranjera con la excepción de *res judicata*. Existe diferencia entre pedir en Filipinas el cumplimiento de una decisión extranjera (enforcement of foreign judgment) y presentar la defensa de *res judicata*. Ordenar el cumplimiento de una sentencia extranjera implica acto directo de soberanía; reconocer la excepción de cosa juzgada solamente interviene el sentido de justicia; de ahí que los artículos 14 y 48–*a* de la Regla 39, no dispone que haya mediado actuación especial para que la excepción de *res judicata* fuese aceptada como se exige en el artículo 47, que fue derogada por resolución de 9 de agosto de 1946. La razón es sencilla; no se pide la ejecución de la *res judicata* como se pide el cumplimiento de una decisión extranjera; solamente se presenta contra una acción como defensa.

5. CORPORACIONES; DIVIDENDOS; QUIEN TIENE DERECHO A LOS MISMOS.—Los dividendos son accesorios de los acciones, como el interés sigue al capital. El dueño de las acciones es el dueño de los dividendos y es el que debe recibirlos, a menos que disponga otra cosa.

RESOLUCIÓN de la moción de reconsideración presentada por el apelado.

Los hechos aparecen relatados en la decisión [2] del Tribunal.

Claro M. Recto y *Perkins, Ponce Enrile, Contreras & Gomez* en representación del demandante y apelado.

Ross, Selph, Carrascoso & Janda en representación de la apelante.

PABLO, *M.:*

El demandante pide la reconsideración de la decisión sosteniendo que no abandonó la sentencia que él había obtenido en la causa tramitada en los Tribunales de Manila, porque él había acudido a los de Nueva York para pedir precisamente que se ejecutase dicha sentencia. La moción de reconsideración dice:

"The only purpose of his New York action was to enforce his final Philippine judgment. * * * (pág. 12.)

* * * * * * *

that plaintiff sought by his complaint in the New York suit enforce the final judgment of the Philippine courts, by securing of the certificates, the ownership of which had already ed by the said judgment, * * *.

pursuing the New York suit, far from having the ndoning the rights granted him under the Philippine to enforce them, * * *..' (Págs. 13–14.)

mendada que se presentó en Nueva York sma. Contiene dos causas de acción: en

053, p. 5411.

la primera, el demandante alega hechos que dieron lugar a que se dictase una decisión en su favor por los tribunales de Filipinas en que se declaraba que las 24,000 acciones de la Benguet Consolidated Mining Company eran bienes gananciales del demandante y su esposa, y no propiedad exclusiva de Mrs. Perkins; en que se la ordenaba que rindiera cuenta de los bienes gananciales que estaban en su poder y que los entregase al demandante; y que, en vez de cumplir dicha sentencia, ella huyó de Filipinas y depositó las acciones en poder de la Guaranty Trust Company of New York. Como segunda causa de acción, el demandante alega hechos que tienden a establecer que las 24,000 acciones de la Benguet Consolidated Mining Company son de su exclusiva propiedad y pedía lo siguiente:

"WHEREFORE, this plaintiff demands judgment against the defendants:

"1. Adjudging and declaring the plaintiff herein to be the true and lawful owner of said certificates numbered 1484, 1595, 2176 2238, 2773, 2780 and 2781 of stock of said Benguet Consolidated Mining Company.

"2. Permanently enjoining and restraining the said defendants, and each of them, from delivering, assigning or transferring said twenty-four thousand (24,000) shares of Benguet Consolidated Mining Company stock to any other person except to the plaintiff herein.

"3. Directing the said defendants, and each of them, to deliver to the plaintiff herein the said twenty-four thousand (24,000) shares of Benguet Consolidated Mining Company stock.

"4. Requiring the said defendants, and each of them, to account to the plaintiff herein and to pay over to said plaintiff any and all dividends which have been or may be received by either of them upon said twenty-four thousand (24,000) shares of Benguet Consolidated Mining Company stock, and for the costs and disbursements of this action, together with any other and further relief as to the Court may seem just and proper." (Exhibit A–64, págs. 20–21.)

Como se ve, el demandante no pidió la entrega a él, como marido o administrador de los bienes gananciales, de las 24,000 acciones; no pidió que se condenase a M[illegible] Perkins y la Guaranty Trust Co. a entregarle las acc[illegible] en cumplimiento de la sentencia del Tribunal de M[illegible] lo que pidió fué (1) que fuese declarado dueño leg[illegible] las 24,000 acciones de la Benguet Consolidated [illegible] Company; (2) que se prohibiese a los demandados [illegible] tregarlas o trasferirlas a cualquiera persona; (3) qu[illegible] mismas acciones fuesen entregadas a el (como d[illegible] indudablemente y no como administrador); y (4) [illegible] demandados rindiesen cuenta de los dividendos de[illegible] acciones.

De acuerdo con la primera causa de acción y la [illegible] obtenida por el demandante en Manila, él era [illegible] condueño de las 24,000 acciones, o propietari[illegible] de las mismas, con derecho a poseer t[illegible] administrador de los bienes gananciales.

su demanda enmendada que fuese declarado dueño de las 24,000 acciones, abandonó necesariamente la sentencia que declaraba que dichas acciones eran bienes gananciales; al pedir que fuese declarado dueño legal de las acciones, abrió de nuevo el pleito sobre la propiedad de dichas acciones, considerando inútil y de ningún valor la decisión de los tribunales de Manila. Que él abandonó dicha decisión es evidente; él pidió que fuese declarado dueño de las 24,000 acciones, en vez de pedir que se ordenase por el Tribunal de Nueva York el cumplimiento y ejecución de la sentencia que él había obtenido en Filipinas. El mismo, con su demanda enmendada suscitando de nuevó la propiedad de las acciones, deshizo dicha decisión, implícitamente pidió su revocación para que pudiese obtener del Tribunal de Nueva York una decisión declarándole dueño legal de les acciones. O estas acciones son gananciales, o son de la exclusiva propiedad del demandante: no pueden ser gananciales y, al mismo tiempo, de la propiedad exclusiva del demandante. Si son gananciales, no pueden ser del demandante, y si son de su exclusiva propiedad, entonces rechazaba, o por lo menos negaba la validez de la decisión de los tribunales de Filipinas: sostenía entonces que él era el único dueño de las 24,000 acciones. Si el objeto del demandante al acudir a los tribunales de Nueva York era solamente conseguir la posesión de las acciones, "the ownership of which had already been determined by said judgment" (de Filipinas), ¿por qué no lo pidió así en su demanda enmendada en vez de pedir que sea declarado dueño de las mismas? Si en su demanda enmendada en Nueva York no hubiera el demandante pedido más que el cumplimiento de la decisión del Tribunal de Manila, sin suscitar de nuevo la cuestión de la propiedad de las acciones y el Tribunal de Nueva York hubiese dictado una decisión contraria a la del Tribunal de Filipinas, este Tribunal probablemente no titubearía en no honrar esa nueva decisión y haría cumplir la primera. Y si la Sra. de Perkins, [espal]das de su marido, reclamando la propiedad de [acci]ones en Nueva York, hubiera obtenido sentencia [a] favor, este Tribunal indudablemente no tendria nin[gún] [repa]ro en ignorar tal decisión y, a petición de parte, [en] cumplir la decisión dictada por el Tribunal de [Filip]inas.

[Bue]no es hacer constar que la demanda enmendada no [fue] firmada por el demandante ni por sus abogados en [Filip]inas, sino por sus abogados en América, Sres. Platt, [Hain]es & Walker pero la actuación de éstos le obliga.

[Invo]ca una decisión de este Tribunal que, en parte,

[dice] que este Tribunal no debe hacer cumplir un [fallo] de un tribunal extranjero, que contraviene nuestras

leyes y los sanos principios de moralidad que informan nuestras estructura social sobre relaciones familiares.

* * * * * * *

"Las sentencias de tribunales extranjeros no pueden ponerse en vigor en Filipinas si son contrarias a las leyes, costumbres y orden público. Si dichas decisiones, por la simple teoría de reciprocidad, cortesía judicial y urbanidad internacional son base suficiente para que nuestros tribunales decidan a tenor de las mismas, entonces nuestros juzgados estarían en la pobre tesitura de tener que dictar sentencias contrarias a nuestras leys, costumbres y orden público. Esto es absurdo." (Querubín *contra* Querubin, 47 Off. Gaz., (Supp-12, 315.)

Por esta doctrina el demandante sostiene que la decisión de Nueva York no debe ser reconocida en Filipinas.

Hay confusión en cuanto a la semejanza de las dos causas. En el asunto de Querubin ocurrieron los siguientes hechos: Silvestre Querubin, filipino, y Margaret Querubin, americana, se casaron en América y tuvieron una hija llamada Querubina; porque la esposa cometió adulterio, el marido pidió divorcio; se le adjudicó el decreto correspondiente, encomendandole la custodia de la menor. Posteriormente la esposa se casó con el hombre con quien había cometido adulterio, tuvieron una hija y después acogieron a una como protegida, y alegando que tenía bastantes recursos para mantener a la hija legal y a la protegida, la esposa pidió la custodia de su hija Querubina cuando Querubín y su hija ya no estaban en Los Angeles porque ya habían venido a Filipinas; el Tribunal Supremo de Los Angeles, California, se la concedió, ordenando al padre que pase una pensión mensual de $30 a Querubina. La esposa presentó en Vigan, Ilocos Sur, un recurso de *habeas corpus* pidiendo la custodia de la menor, fundand su reclamación en el segundo decreto del Tribunal California en que se le había concedido la custodia la menor. Este Tribunal no reconoció el decreto porqu era contrario a la moral y a la ley; porque "la menor estaría bajo el cuidado de su madre que fué declar judicialmente culpable de infidelidad conyugal; bajo un techo juntamente con el hombre qué a su madre y ofendió a su padre."

La custodia de hijos menores en Filipinas se en al cónyuge inocente; por esta razón, este Tri decidir el recurso de habeas corpus en apela tendió el decreto del Tribunal de Californi

En el paso presente, la decisión del Tribu York no ha sido obtenida por la Sra. de Pe del demandante; al contrario, esa decisión virtud de la demanda entablada por el fué el actor, el iniciador de la causa e por segunda vez la propiedad de las 2 abandonando la decisión del Tribuna que dichas acciones fuesen declarada propiedad. Después de una vista en qu

tenido amplia oportunidad de ser oídas, se dictó sentencia declarando a la Sra. de Perkins dueña de las acciones. Esta sentencia es final entre los dos. El demandante no tiene derecho a impugnar dicha decisión dictada en un asunto iniciado por él ante el Tribunal de Nueva York en que ellos, demandante y demandada, son ciudadanos. Es inaplicable la doctrina de Queribín contra Querubín en la presente causa.

Suponiendo que el Tribunal de Nueva York hubiera decidido que las 24,000 acciones eran de la exclusiva propiedad del demandante, y la Sra. de Perkins hubiera venido a Filipinas para pedir judicialmente la partición de dichas 24,000 acciones que son bienes gananciales, se habria allanado el demandante a tal demanda de partición? Indudablemente que no; él habría alegado como defensa de *res judicata* la decisión del Tribunal de Nueva York en que se le declaraba dueño exclusivo de las 24,000 acciones; habría alegado que el Tribunal de Nueva York tenía jurisdicción sobre la cosa litigiosa; no habría permitido que la decisión del Tribunal de Manila fuese reconocida. Precisamente pidió que fuese declarado dueño de las 24,000 acciones porque no estaba conforme en que dichas acciones fuesen solamente gananciales: su interés entonces era obtener una sentencia incompatible con la del Tribunal de Filipinas. Y ahora que la decisión no favorece al demandante pero sí a la Sra. de Perkins, ¿por qué esa decisión no constituye *res adjudicata* y tiene que ser nula, por qué el Tribunal de Nueva York no tiene jurisdicción sobre la materia litigiosa, y por qué la decisión del Tribunal de Nueva York no debe tener ningún valor en Filipinas? Para el demandante el Tribunal de Nueva York tiene jurisdicción si la sentencia le es favorable, pero no si le es contraria. Es inconsistente la teoría del demandante y, por inconsistente, insostenible.

"One who subjects himself to the jurisdiction of a court, [e]n where he would not otherwise be subject to suit, [m]es subject to any valid claim asserted against him [r]elating to the subject matter of his voluntarily [p]roceeding." (Hoxsey *vs.* Hoffpauir, 180 F. 2d

[i]s not lie in the mouth of one who has affirmed [j]iction of a court in a particular matter, to [p]urpose, to afterward deny such jurisdiction [p]enalty." (Littleton *vs.* Burgess, 16 L.R.A. [W]yo. 58, 91 Pac. 832.)

[o]ne to invoke the exercise of a jurisdiction [g]eral powers of a court and then to reverse [t]he ground that it had no jurisdiction [l]w one to trifle with the courts. The [d]f estoppel in the interest of a sound [t]he laws * * * closes the mouth of [(]Spence et ux. *vs.* State Nat. Bank

of El Paso et al., 5 S.W. (2d), 754.) (Commission of Appeals of Texas, Sec. B, May 2, 1928.)

El demandante contiende que la decisión del Tribunal de Nueva York no tiene efecto como *res adjudicata* en Filipinas porque Manresa dice que "En cuanto a las sentencias extranjeras, de mayor importancia cada día, deberá atenderse a las reglas que sobre su ejecución, con la cual se relaciona su firmeza, contiene la ley Procesal, distinguiendo según les varios casos que ésta regula, y no atribuyendo efecto de cosa juzgada a la sentencia mientras no se haya autorizado su ejecución." (8 Manresa, 531.)

La ley de enjuiciamiento civil española no está en vigor en Filipinas. En su lugar está la Regla 39, artículo 44, que dispone lo siguiente:

"El efecto de una sentencia u orden finales dictadas por un tribunal o juez de Filipinas o de los Estados Unidos, o de cualquier estado o territorio de los Estados Unidos, que tenga jurisdicción para dictar dicha sentencia u orden, pueden ser el siguiente: * * * (*b*) En los demás casos, *la sentencia así dictada es,* respecto de la materia sobre la cual recayó, *concluyente entre las partes y sus derechohabientes por titulo subsiguiente al comienzo de la acción o actuación especial, que litiguen sobre la misma cosa, bajo el mismo título y en la misma capacidad.*"

Y el artículo 48 (*a*) que trata del efecto de las sentencias dictadas en el extranjero, dice:

"Si la sentencia fuere sobre una cosa determinada, será concluyente en cuanto al título de la misma;"

No es preciso, según estos artículos, que para que la excepción de cosa juzgada, consistente en una decisión extranjera, pueda oponerse con éxito en Filipinas, haya mediado un juicio admitiendo dicha decisión.

No debe confundirse la ejecución de una sentencia extranjera con la excepción de *res judicata.* Existe diferencia entre pedir en Filipinas el cumplimiento de una decisión extranjera (enforcement of foreign judgment) y presentar la defensa de *res judicata.* Ordener el cumplimiento de una sentencia extranjera implica acto directo de soberanía; reconocer la excepción de cosa juzgada solament[illegible] inte[illegible]viene el sentido de justicia; de ahí que el ar[illegible] de la Regla 39, no dispone que haya mediado [illegible] especial para que la excepción de *res judicata* fu[illegible] tada como se exige en el artículo 47.

El procedimiento para pedir el cumplimi[illegible] decisión extranjera no es igual en las siguie[illegible]

En Filipinas, antes de la derogación por[illegible] en su resolución de 9 de agosto de 1946, [illegible] de la Regla 39, era el siguiente:

"El efecto de un expediente judicial de un tribunal d[illegible] *Unidos,* o de uno de sus Estados o territori[illegible] Filipinas el mismo que en los Estados Unid[illegible] territorio en donde se tramitó, sólo que, [illegible] aquí, es menester que haya mediado un ju[illegible] al afecto." (Art. 47, Regla 39.)

A falta de procedimiento previamente establecido, creemos que para que se pueda pedir cumplimiento de una decisión extranjera en Filipinas, deberá presentarse una acción fundada en ella.

En Italia: "Of all the foreign countries enforcing foreign judgments as such, Italy has had the distinction for many years of having adopted the most liberal policy. According to this system the *status* of the foreign judgment is fixed once for all. The review of the judgment relates only to certain points which have no reference to the correctness of the decision. Before the foreign judgment is enforced a preliminary proceeding, takes place (Giudizio di delibazione) whose object it is to ascertain whether the judgment was rendered by a court of competent jurisdiction, whether the defendant had due notice of the original proceeding, whether he appeared or was duly defaulted and whether the enforcement of the foreign judgment would be contrary to the public policy of Italy. If the judgment satisfies these requirements, the justice or injustice of the plaintiff's claim will not be reviewed. The above system is derived from the principle of the equality of all states, and rests upon the fundamental assumption that the judgments of other states are entitled to full trust and confidence. As in the case of domestic judgments, a foreign judgment so far as its merits are concerned, imports absolute verity—an irrebutable presumption being created in favor of its fairness and injustice."

En Francia: "Under the ordinance of 1629 the French courts would enforce foreign judgments obtained by Frenchmen without a review of the merits. No effect would be given, however, to foreign judgments against a Frenchman. As against, a new theme a new suit would have to be brought on the original cause of action. According to Maleville the law was not changed by the Code Napoleon, but this view is now generally abandoned. The system actually prevailing is one which reviews the merits of the case (révision i[illegible]e which reviews the merits of the case (révision [illegible] It does not content itself with inquiring into [illegible]iction of the foreign court, the regularity of the [illegible]f the summons, appearance or default, and the [illegible]w of the state in which the proceeding for the [illegible]f the foreign judgment is brought; but exa[illegible]its of the decision itself. The French doc[illegible]n an assumption diametrically opposed to [illegible]g the Italian system, and emphasizes the [illegible]le the different states of the civilized world [illegible] equal and entitled to the same respect, their [illegible]lly inspire the same degree of confidence [illegible]decisions. It takes notice of the fact [illegible]certain countries are less competent [illegible]nd are sometimes not free from bias

against defendants belonging to a foreign country. Under these circumstances it is felt to be the duty of a state, before allowing the execution of foreign judgments within its territory to ascertain whether the foreign judgment was fair and just."

En Inglaterra: "The English law by requiring a suit on the foreign judgment differs from the other foreign systems in the mode of enforcing foreign judgments for the payment of money. It differs from them also in that it regards foreign judgments as enforceable in principle and imposes upon the defendant the burden of establishing the defenses recognized by law. As regards the conclusive effect of foreign judgments the English law stands between the French and Italian systems. Originally foreign judgments were regarded as being only *prima facie* evidence of the justice of plaintiffs' claim, but since the case of Godard *vs.* Gray they are ordinarily conclusive. In this respect the English law has abandoned the viewpoint of the French law and accepted that of Italy (before the decree of July 30, 1919). It does not go so far, however, as does the former Italian law, for in exceptional cases it will try the merits of the case over again. The law appears to be established in England that foreign judgments may be impeached if procured by false and fraudulent representations and testimony of the plaintiff, even if the same question of fraud was presented to and decided by the foreign court. Such fraud may be shown although it cannot be done without a retrial of the case. The object of such retrial is not, however, to show that the foreign court came to a wrong conclusion, but that it was fraudulently misled into coming to a wrong conclusion. Courts of equity may enjoin the enforcement of judgments, domestic or foreign, if they have been procured through fraud, accident, mistake or surprise." (29 Yale Law Journal, 194–199.)

En cuando al reconocimiento de decisiones ext
como *res adjudicata,* varios autores sostienen que, s
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Journal, 190.)

En Filipinas no es necesario teoriza
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jera para que ella surta efecto como defensa de cosa juzgada. La razón es sencilla: no se pide la ejecución de la *res adjudicata* como se pide el cumplimiento de una decisión extranjera; solamente se presenta contra una acción como defensa. Ahora bien, si se pidiese por la Sra. de Perkins el pago en Filipinas de los dividendos de las 24,000 acciones de la Benguet Consolidated Mining Co., entonces ya no es suficiente la simple exhibición de la decisión del Tribunal de Nueva York, es indispensable que ella entable la acción correspondiente en el juzgado competente para pedir una sentencia fundada en la del Tribunal de Nueva York. Hemos estudiado detenidamente las decisiones extranjeras y nacionales que tienen relación con la presente causa, y no hemos encontrado ninguna razón por que la decisión del Tribunal de Nueva York no debe tener efecto como *res adjudicata* entre las partes litigantes.

Si el demandante hubiera obtenido sentencia a su favor en su demanda pidiendo que fuese declarado dueño absoluto de las 24,000 acciones, él habría sostenido en América, en Filipinas y en todas partes que dicha decisión era válida: pero como la fué adversa, arguye hoy en la presente causa que dicha decisión es nula y de ningún valor y que no tiene efecto de cosa juzgada. Los litigantes, ya sean naturalesa ya extranjeros, deben respetar las decisiones de los tribunales de Filipinas; pero si optaran por acudir a un tribunal extranjero, pidiendo un remedio incompatible con la disposición de la sentencia obtenida en Filipinas y obtuviesen una decisión adversá no se les debería permitir que repudiaran luego la del tribunal extranjero y pidieran el cumplimiento de la decisión del tribunal de Filipinas que ellos habían abandonado. Permitirles litigar de esa manera es contrario al orden e interés público en Filipinas porque perturba la ordenada administración de la ley.

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Unidos si el demandante no hubiese abandonado
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is respectfully prayed that judgment
f the plaintiff and against the de-

fendant Benguet Consolidated Mining Company for the sum of ₱71,379.90, consisting of the dividends which have been declared and made payable on the said 52,874 shares in defendant Benguet Consolidated Mining Company registered in plaintiff's name which remain unpaid, as hereinbefore alleged, together with interest thereon at the rate of six per cent per annum from the date of filing of the original complaint herein until paid; that the defendant Benguet Consolidated Mining Company be ordered to pay to plaintiff all dividends declared in the future on the said shares, so long as they stand in plaintiff's name, whenever said dividends are made payable; that defendant Benguet Consolidated Mining Company be required and ordered to recognize the right of the plaintiff to the control and disposal of said shares, so standing in his name, to the exclusion of all others; that the additional defendants Idonah Slade Perkins and George H. Engelhard be each held to have no interest or claim in the subject matter of the controversy between plaintiff and defendant, Benguet Consolidated Mining Company, or in or under the judgment to be rendered herein and that by the said judgment they, and each of them, be excluded therefrom; and that the plaintiff be awarded the costs of this suit and general relief."

El demandante no pide ser declarado dueño de las 24,000 acciones: sólo pide el pago por la Benguet Consolidated Mining Company de los dividendos vencidos y no pagados y los dividendos que vayan venciendo, y no expresa en qué concepto ha de recibir los dividendos: si como administrador de los bienes gananciales o como dueño absoluto. Los dividendos son accesorios de las acciones, como el interés sigue al capital. El dueño de las acciones es el dueño de los dividendos y es el que debe recibírlos, a menos que disponga otra cosa. Como la propiedad de las 24,000 acciones ha sido debidamente decidida ya por el Tribunal de Nueva York, a instancia precisamente del demandante, sus dividendos deben ser pagados a la dueña declarada. Los dividendos vencidos de dichas acciones, que ascienden a ₱1,019,245.92, ya habían sido satisfechos, por ejecución, en California, y no por acto voluntario de la demandada. Los mismos dividendos no deben pagarse o otra persona, especialmente al demandante que fué vencido en la cuestión sobre la propiedad. El sobresimiento de la demanda [illegible] fundado.

Se deniega la moción de reconsideración.

Parás, C. J., Bengzon, Padilla, Jugo, Bautista A[illegible] Labrador, and *Concepción, JJ.,* concur.

Se deniega la moción de reconsideración.

[No. L-7115. March 30, 1954]

EUGENIO N. BRILLO, Juez de Paz del Capital de Leyte, recurrente, *contra* MANUEL ENAGE y EL HONORABLE SECRETARIO DE JUSTICIA, recurridos.

1. "QUO WARRANTO"; PLAZO PARA LA PRESENTACIÒN DE ESTA ACCIÓN.—Se contiende que la acción de *quo warranto* está prescrita, porque el año fijado para la presentación de la misma debe contarse desde que entró en vigor la Ley de la República No. 761, o sea el 20 de junio de 1952, y el recurso se presentó sólo el 12 de octubre de 1953. Se inauguró la ciudad de Tacloban en 12 de junio de 1953 y hasta el día anterior el juez de paz recurrente continuaba sin obstáculo alguno desempeñando el cargo. *Se declara:* Que la acción no está prescrita. Debe contarse el año para la presentación de la misma desde el 12 de junio de 1953.
2. ID.; JUECES DE PAZ; SU DERECHO DE CONTINUAR EN EL CARGO HASTA QUE LLEGUE A LOS 70 AÑOS DE EDAD O SE INCAPACITE.—El derecho de un juez de paz de desempeñar su cargo hasta los 70 años de edad o se incapacite no priva al Congreso de su facultad de abolir, funcionar o reorganizar juzgados no constitucionales (Zandueta *vs.* De la Costa, 66 Phil., 615; 42 Am. Jur., Pub. Officers, 904–5. Pero en el caso de autos, el Juzgado de Tacloban no ha sido abolido. Sólo se le ha cambiado el nombre con el cambio del gobierno local. Aunque el artículo 89 de la Carta de Tacloban no incluye al Juez de Tacloban entre los funcionarios municipales que an a continuar como funcionarios de la ciudad hasta que sus cargos expiren, eso no demuestra que el juez de paz debe cesar. La razón es (1°) que el juez de paz no es funcionario municipal y que está pagado con fondos nacionales y está nombrado y actúa supervisado por el Gobierno nacional; y (2.°) que el juez de paz no necesita ser incluído entre los que deben continuar porque la ley misma dispone que el desempeño de su cargo es hasta la edad de 70 años o se incapacite, y no le afecta los transitorios cambios locales de gobierno.

ORIGINAL ACTION in the Supreme Court. Quo Warranto and for Declaratory Relief.

The facts are stated in the opinion of the court.

Emilio Benitez, Jr. for petitioner.

Solicitor General Juan R. Liwag and *Solicitor Felix V. Makasiar* for respondents.

DIOKNO, *M.:*

El recurrente era en 12 de junio de 1953 el juez de paz del municipio de Tacloban, capital de la provincia de Leyte. Lo era desde el 7 de noviembre de 1921.

El [illegible] de junio de 1952 se aprobó la Ley de la República [illegible]40 Off. Gaz. 3169–3204), que convirtió el municipio [illegible]l de Tacloban, con la misma jurisdicción territorial [illegible]o 2). Si bien la ley entró en vigor en la misma [illegible]de su aprobación (artículo 95), se encomendó al Pre[illegible] la fijación de la fecha de la organización de la ciu[illegible]n la disposición de que los actuales Alcalde, Vice [illegible] y Concejales del municipio de Tacloban continuarán [illegible]ivamente como tales de la ciudad hasta la expira-

ción de sus cargos (artículo 89). El municipio convertido en ciudad continua siendo capital de la provincia y parte de la misma a los fines de la elección de los cargos provinciales y del representante (artículos 90, 91, 92).

La carta de la ciudad contiene el acostumbrado capítulo sobre el Juzgado municipal. Provee que habrá un juez municipal de la ciudad. Su jurisdicción será la misma que la ley confiere al juez de paz del lugar. En cuanto a la jurisdicción criminal que especifica los incisos (*b*) y (*c*) del artículo 78 de la Carta de Tacloban, la tendrá concurrentemente con el Juzgado de Primera Instancia. (artículo 78, Carta de Tacloban, comparado con el artículo 78, Ley de la Judicatura.)

El recurrente ha continuado desempeñando el cargo de juez de paz de Tacloban hasta que la ciudad fué inaugurada el 12 de junio de 1953. Entonces un juez municipal auxiliar fué nombrado, y fué quien atendio y despachó los asuntos del Juzgado municipal de la ciudad. El 27 de dicho mes fué nombrado el recurrido Juez municipal de la ciudad de Tacloban *ad interim,* y este juró el cargo el 6 de julio de 1953, desde cuya fecha viener desempeñandol.

Fué inútil que el 15 de noviembre de 1952 el recurrente acudiese al Secretario de Justicia para que sea retenido en el servicio como juez municipal de la ciudad, ni que el 7 de octubre de 1953 elevara al Presidente un instancia al efecto.

La primera cuestión que se presenta en este recurso es si el mismo se ha presentado fuera de tiempo. El recurrido contiende que la acción está prescrita, porque el año fijado para la presentación de la misma debe contarse según el recurrido desde que entré en vigor la Ley de la República No. 761, o sea el 20 de junio de 1952, y al recurso se presentó solo el 12 de octubre de 1953. En este caso el derecho de acción no ha surgido hasta la inauguración de la ciudad en 12 de junio de 1953, porque hasta el día anterior el recurrente continuaba sin obstáculo alguno desempañando el cargo. Por tanto la acción no está prescrita. (Regla 68, artículo 16; Bautista *vs.* Fajardo, 38 Phil., 624, 626–627; Abeto *vs.* Rodas, 47 Off. Gaz. 930; Martinez *vs.* Ozaeta, G. R. No. L–2430, marzo 19, 1949.)

La segunda cuestión que el recurrido plantea es que la Carta de Tacloban ha abolido el puesto. Si efectivame[nte] ha sido abolido el cargo, entonces ha quedado extinguid[o] derecho de recurrente a ocuparlo y a cobrar el salario [co]rrespondiente. McCulley *vs.* State, 46 LRA, 567. El [de]recho de un juez de desempeñarlo hasta los 70 años de [e]d o se incapacite no priva al Congreso de su faculta[d] abolir, fusionar ó reorganizar juzgados no constitucio[nales] Zandueta *vs.* De la Costa, 66 Phil., 615; 42 Am. Ju[r.] Officer, 904–5.

Pero en el caso de autos el Juzgado de Taclobal[n] sido abolido. Sólo se le ha cambiado el nombre[,] cambio de forma del gobierno local.

"The office of a municipal or a city judge is not abolished by the change in the form of local government.—Perrey *vs.* Bianchi, 96 NJL, 113, 114 A 452.

"Where, on transition of a municipality from one class to another, there is no provision in the statute declaring a certain office vacant and the duties under it are in each case substantially the same, the transition does not vacate the office."—State *vs.* White, 20 Nebr. 37, 28 NW 846, cited in 43 C. J. p. 649.

"A statute which simply changes the name of an office and transfers the duties thereof to a person other than the incumbent, and does not in fact abolish the office, cannot have the effect of removing the incumbent."—Malone *vs.* Williams, 118 Tenn. 390, 103 S .W. 798; State ex rel. *vs.* Hamby, 114 Tenn. 361, 84 S. W. 622.

'But a statute, although purporting to abolish municipal offices cannot have the effect of removing officers holding under the city charter when the act hectares the office under another name."—Malone *vs.* Williams, supra; 43 C. J. 601.

"In such case however, the office must be abolished in good faith and if immediately after the office is abolished another office is created with substantially the same duties and a different individual is appointed, or if it otherwise appears that the office was abolished for personal or political reasons, the courts will interfere"—Garvey *vs.* Lowell, 199 Mass 47, 85 N. E. 182, 127 A. S. R. 468; State *vs.* Eduards, 40 Mont. 287; 106 Pac. 695, 19 R. C. L. 236.

Síguese de lo expuesto que la aprobación de la Carta de Tacloban no tiene el efecto de destituir al recurrente. Es aparente de la misma ley la ausencia de intención semejante.

Argúyese por el recurrido que el artículo 89 de la Carta de Tacloban, al no incluir al Juez de Tacloban entre los funcionarios municipales que van a continuar como funcionarios de la ciudad hasta que sus cargos expiren, demuestra la exclusión del juez de paz de entre los que no deben cesar. La contestación a este argumento es 1.° que el Juez de Paz no es funcionario municipal; está pagado con fondos nacionales y está nombrado y actúa supervisado por el Gobierno nacional; y 2° que el juez de paz no necesita ser incluido entre los que deben continuar, porque la ley misma dispone que el desempeño de su cargo es hasta la edad de 70 años o se incapacite, y no le afecta los transitorios cambios locales de gobierno.

El puesto del recurrente es el del juzgado de paz convertido en juzgado municipal de la ciudad de Tacloban, y no estando vacante el mismo el recurrido fué nombrado sin autoridad legal y es un usurpador del mismo.

POR TANTO, se concede el recurso. El recurrente tiene derecho a continuar desempeñando el cargo de juez de paz, ahora intitulado municipal de la ciudad de Tacloban y se ordena que el recurrido lo desaloje y entregue al recurrente, con las costas. Se sobresee el recurso en cuanto al Secretario de Justicia. Así se ordena.

Avanzeña, Pres., Pablo, Bengzon, Padilla, Montemayor, Jugo, Tuason, Bautista Angelo, JJ., estan conformes.

Se concede el recurso.

DECISIONS OF THE COURT OF APPEALS

[No. 10498–R. February 2, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* MAXIMINO RICO and CLARO VALENZUELA, defendants. MAXIMINO RICO, appellant.

1. CRIMINAL LAW; THEFT; GAIN, MEANING OF.—By gain is meant not only the acquisition of the thing useful to the purpose of life, but also the *benefit* which in any other sense may be derived or expected from that which is performed (People *vs.* Fernández, 38 Off. Gaz., 985).
2. ID.; ID.; WORD "TAKING" UNDER ARTICLE 308, REVISED PENAL CODE, CONSTRUED.—The "taking" referred to in article 308 of the Revised Penal Code must be accompanied by the intention, *at the time of the taking*, of withholding the thing with character of permanency, and the term *"apoderar"* or *"apoderarse"* in connection with this element of theft, must be coupled with the intention of placing the property taken under one's control and of making oneself the owner thereof, be it a horse, a carabao or any other movable property (People *vs.* Galang et al., 43 Off. Gaz. 577; People *vs.* Mateo, CA–G. R. No. 3514–R, promulgated October 17, 1949; People *vs.* Agustin Castañeda Kho Choc, CA–G. R. No. 10231–R, promulgated January 23, 1954).

APPEAL from a judgment of the Court of First Instance of Cagayan. Quitoriano, *J.*

The facts are stated in the opinion of the court.

Pablo Veridiano for defendants and appellant.

Assistant Solicitor General Lucas Lacson and *Solicitor Lauro C. Maiquez* for plaintiff and appellee.

FELIX, *J.:*

Maximino Rico and Claro Valenzuela were accused in the Court of First Instance of Cagayan, charged with the crime of theft of large cattle. After hearing the court found Maximino Rico guilty as charged and sentenced him to an indeterminate penalty of from 4 years, 2 months and 1 day of *prisión correccional* to 9 years, 4 months and 1 day of *prisión mayor*, to the accessory penalties provided by law and to pay one-half of the costs. The other defendant, Claro Valenzuela, was acquitted on reasonable doubt with the other half of the costs *de oficio*.

From said verdict of conviction Maximino Rico appealed to us and in this instance his counsel maintains that the lower court was very rigorous and legalistic in imposing a very serious penalty for a light offense which was characteristic of youth by not appreciating the facts as they really took place, and in declaring appellant herein guilty of qualified theft instead of merely simple theft.

According to the evidence of the prosecution, on the night of May 18, 1952, Jose Fontanilla, Melanio Lazo and Félix Villon took their respective horses to the rice field of East Center, Faire, Cagayan and left them there to grass. In the morning of the following day when they came back to get their respective horses they found that the animals were no longer there. Immediately they proceed to look for them but their efforts to locate their respective horses were in vain, so Melanio Lazo, one of the owners of the missing animals, reported the matter to *barrio* lieutenant Victoriano Salvador, informing him that Jose Fontanilla told him that Maximino Rico and Claro Valenzuela had taken said horses and asked him to secure the help of the Chief of Police who sent a policeman and some soldiers to investigate appellant Maximino Rico and Claro Valenzuela. Upon being investigated the latter readily made a written statement admitting having had in their possession the animals in question (Exhibits A–1, A, B–1 and B).

It also appears that three stolen horses were thereafter recovered by their respective owners and that the horse of José Fontanilla is valued at ₱250, that of Melanio Lazo is valued at ₱100, while that of Félix Villon is valued at ₱80.

Counsel for appellant practically admits the statement of facts made by the trial judge in the decision appealed from, but he contends that under the evidence on record Maximino Rico cannot be convicted of theft of large cattle. The version of the defense is that appellant and Claro Valenzuela—two youngsters desiring to enjoy themselves in a ball at the house of Rico's sister-in-law in Cabuluan, Alcalá, Cagayán, about two kilometers from the town of Faire, and with the carelessness and indiscretion of youth who ordinarily do not foresee the consequences of their acts—took without intent to gain two horses to ride on and get more quickly to the place of the ball. Rico found in a field a loose mare and rode on it; unfortunately that animal was followed by two colts which, as customary, were likewise left loose in the place for the purpose of propagation. When these colts followed the mare on which Rico was riding the latter, in his desire to have a compa-
on to the ball, told Claro Valenzuela to ride on one of
e colts in order to prevent and pacify their struggle for
the mare. Claro Valenzuela, probably induced by the com-
nsation of ₱5 that his friend offered him, yielded to the
eposition of Rico and mounted the "paton" horse of José
anilla, his neighbor. The two defendants, however,
t get to their destination, i.e., the ball at Cabuluan,
e Claro Valenzuela upon noticing that he was riding
horse of his neighbor feigned to answer a call of

nature to get away from his companion and did not come back to join him any more. Maximino Rico in his turn desisted from continuing his journey because the two colts continued quarelling between themselves and abandoned the colt that Claro had mounted and the mare used by him. He did not let loose the brown colt for it was merely following the mare and was the one that was fighting with the "paton" colt used by Valenzuela.

According to the defense these were the real facts that happened in the night in question: just a moment of juvenile indiscretion and imprudence to have a night of dancing and joy that redounded to their misfortune, because when Fontanilla was told by Valenzuela that Maximino Rico had taken his horse, he went to *barrio* lieutenant Victoriano Salvador who reported the matter to the Chief of Police of the town, who in turn instructed one of his policemen to conduct an investigation, in which Sergeant Rapanan officiously took part. The defense claims that in this investigation Sergeant Rapanan, by means of threats and force succeeded in getting from appellant the affidavit Exhibit A. At first Rico only told them that they merely rode on those horses, but as the investigators gave him no credence, he told the soldiers, in consonance with the instructions he received from Félix Villon, that it was Claro Valenzuela who took the horses. That explains why Claro Valenzuela was also included in the charge, notwithstanding the fact that, as admitted by Fontanilla, Valenzuela informed him in the morning of *Monday, May 19, 1952,* that he and Maximino Rico got his horse. Fontanilla testified that early in the morning of that day he discovered that his horse was lost and went around in search for it, and when he went to eat at home Claro Valenzuela was already there and said: "Don't worry, we are the ones who got your horses, we rode on them. The horses on which we rode last night are your horses."

Félix Paquing, municipal mayor of Faire, also testified that he came to know that the horses were recovered by their owners.

Maximino Rico is a lad about 26 years of age, farmer and of no criminal antecedents. After going over the evid[illegible] we are more inclined to give the defendant the benef[illegible] the doubt as to his intent in taking the horses in ques[illegible] rather than to impose upon him a severe penalty and [illegible] stroy his future. Intent of gain may have existed in th[illegible] commission of the act, as such intent is indicated in th[illegible] case of People *vs.* Fernández (38 Off. Gaz., 985), becaus[illegible] "by gain is meant not only the acquisition of the thi[illegible] useful to the purpose of life, but also the *benefit* whi[illegible] any other sense may be derived or expected from[illegible] which is performed." But the *"taking"* of the h[illegible]

another essential element of the offense of theft, was not duly established, because as we stated in the cases of People *vs.* Galang et al. (43 Off. Gaz., 577) and People *vs.* Mateo (CA–G. R. No. 3514–R, promulgated October 17, 1949) and in the recent cases of People *vs.* Agustin Castañeda Kho Choc (CA–G. R. Nos. 10231–R and 10234–R, promulgated January 23, 1954), the "taking" referred to in article 308 of the Revised Penal Code must be accompanied by the intention, *at the time of the taking,* of withholding the thing with character of permanency. As ruled in the decision of the Supreme Court of Spain of November 28, 1903, (the term *"apoderar"* or *"apoderarse"*, in connection with this element of theft, must be coupled with the intention of placing the property taken under one's control and of making oneself the owner thereof, be it a horse, a carabao or any other movable property. For lack of this essential element of theft we believe that appellant is entitled to an acquittal on the basis of reasonable doubt.

Wherefore, the decision appealed from is hereby reversed and the defendant freely acquitted of the charge he has been prosecuted herein, with costs *de oficio.*

It is so ordered.

Rodas and *Peña, JJ.*, concur.

Judgment reversed; defendant acquitted, with costs de oficio.

[No. 10152–R. February 4, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* VENANCIO A. VIRAY and FELIX ARANDA, defendants. VENANCIO VIRAY, appellant.

1. CRIMINAL LAW; ESTAFA; ISSUANCE OF POSTDATED CHECK.—The mere Issuance of a postdated check is not a crime *per se.* Where an accused issued a postdated check believing in good faith that he would be able to deposit in the bank sufficient funds to pay said check when presented for collection, but contrary to his expectations was unable to make the necessary deposit, he cannot be held guilty of the crime of estafa. (People *vs.* Villapando, 56 Phil., 31.)

; ID.; ISSUANCE OF CHECKS WITHOUT FUNDS.—The issuance of checks without funds, whether postdated or not, in payment of prior subsisting debt does not constitute estafa.

PPEAL from a judgment of the court of First Instance of Manila. Pecson, *J.*

The facts are stated in the opinion of the court.

rique Jimenez for defendants and appellant.
istant Solicitor General Guillermo E. Torres and *Solic- Federico V. Sian* for plaintiff and appellee.

PEÑA, *J.:*

Venancio A. Viray was indebted to Jose Bautista in the sum of ₱1,400 which he had been paying by installments. Pressed by his creditor to pay the balance of ₱625, Venancio in the early part of March, 1951, issued in favor of the former the following checks, payable to bearer and drawn on the Philippine Bank of Commerce—

Check No.	Date	Amount
735985–A	March 31, 1951	₱125.00
735989–A	April 4, 1951	120.00
735992–A	April 6, 1951	260.00
835994–A	April 7, 1951	120.00

Postdated as the checks were, Venancio told his creditor Jose Bautista not to cash the same, as he might not be able to deposit sufficient funds on the dates indicated thereon. Telling Venancio not to mind it, for it was only to avoid looking for him all the time, Bautista further said that he would just go to the bank to find out if his debtor had already funds for the checks.

Not living up to his promise, Bautista contacted an agent by the name of Felix Aranda, and thru the intercession of this intermediary, who was a friend of Crisanto Agpawa, the checks were negotiated at a discount with the latter. It is to be stated in this connection that Aranda and Agpawa were not known to Viray before the encashment of the checks or before they were dishonored. The proceeds of the negotiation, less the discount, were turned over to Jose Bautista.

Based upon the foregoing circumstances, Venancio A. Viray and Felix Aranda were accused of estafa in the Court of First Instance of Manila, with Crisanto Agpawa as the offended party. After the prosecution had rested its case, the court, upon motion of counsel for Felix Aranda, dismissed the case against him for insufficiency of evidence. Thus, trial proceeded with respect to Venancio A. Viray only, after which he was found guilty as charged, and sentenced to suffer a penalty of 2 months and 1 day of *arresto mayor* to 1 year and 1 day of *prisión correccional,* to the accessories of the law, to indemnify the offended party in the sum of ₱625, with subsidiary imprisonment in case of insolvency, and to pay the costs. From this judgment, Venancio A. Viray appealed, and now maintains that the lower court erred—

1. In considering the issuance of the postdated checks in question as fraudulent and in violation of article 315, subsection (*d*) of the Revised Penal Code, and not as payment of an old outstanding indebtedness of defendant-appellant;

2. In classifying the transaction that stemmed from the issuance of the postdated checks in question as estafa and not as transaction *purely civil in nature,* there being no deceit; and

3. In not acquitting the accused on reasonable doubt.

The focal issue in this appeal is whether or not on the basis of the foregoing circumstances, Venancio A. Viray could be convicted of estafa pursuant to article 315, subsection (*d*) of the Revised Penal Code, providing that—

"By postdating a check or issuing such check in payment of an obligation the offender knowing that at the time he had no funds in the bank, or the funds deposited by him in the bank were not sufficient to cover the amount of check, and *without informing the payee of such circumstance.*"

There are two essential requisites for the crime of estafa, namely, fraud and damage both of which are necessary to secure a conviction. In the instant case, it is true, and appellant does not deny, that he issued the aforementioned postdated checks knowing that at the time of issuance thereof he had no sufficient funds in the bank to cover them, but, as the record shows, he informed the payee of such fact, and even asked him not to cash or negotiate the same until such time when he would be able to deposit the necessary funds which, because of business misfortunes, he was not able to do so. The mere issuance of a postdated check is not a crime *per se*. The Supreme Court in the case of People *vs.* Villapando, 56 Phil., 31, ruled that where an accused is sued a postdated check believing in good faith that he would be able to deposit in the bank sufficient funds to pay said check when presented for collection, but contrary to his expectations was unable to make the necessary deposit, he cannot be held guilty of the crime of estafa. Far from deceiving his creditor, appellant evidently had not also the intention of doing damage upon him. It was at the behest of his creditor that Viray issued the checks in question so that the former would do away with always looking for the latter. We are not of course unmindful of the fact that Jose Bautista was not presented in court to corroborate the claim of his debtor, but, as the record reveals, it was physically impossible to do so at the time of the trial because, as satisfactorily explained in the lower court by appellant's counsel, he was outside the Philippines, serving as he was in the U. S. Navy, and his return was not certain.

Moreover, it has never been established that there was conspiracy between Viray and Aranda to defraud and damage Crisanto Agpawa. And as a matter of fact such failure to show conspiracy caused the dismissal of the case of Felix Aranda.

Anyway, the Supreme Court has already held that the issuance of checks without funds, whether postdated or not, in payment of prior subsisting debt does not constitute estafa. As appellant's criminal liability for the crime charged has not been established, we cannot declare him guilty thereof. At any rate, if any should be held re-

sponsible for the encashment of the checks in question, it would be Jose Bautista for reasons already stated.

Wherefore, the judgment appealed from is hereby set aside, and the accused-appellant acquitted, with costs *de oficio*.

It is so ordered.

Felix and *Rodas, JJ.*, concur.

Judgment set aside; accused appellant acquitted with cost de oficio.

[No. 11384-R. February 18, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* CARLOS LAMAGNA, defendant and appellant

CRIMINAL LAW; ROBBERY; CIRCUMSTANCE OF USE OF MOTOR VEHICLE, NOT ALLEGED IN INFORMATION, EFFECT UPON PENALTY.—The trial court found the accused guilty of the crime of robbery as provided and penalized in article 294, paragraph 5, of the Revised Penal Code, and, alleging that in its commission a motor vehicle was used, it imposed a penalty one degree higher to *prisión correccional* in its maximum period to *prisión mayor* in its medium period provided in said article, as amended by Republic Act No. 18. This is an error, because the robbery was not committed in a motor vehicle, but only with the use thereof, and although this circumstance was not alleged in the information, it shall be considered only as an ordinary aggravating circumstance, and not a qualifying one. Therefore, the minimum as well as the maximum period imposed by the trial court are not in accordance with law.

APPEAL from a judgment of the Court of First Instance of Manila. Tan, *J.*

The facts are stated in the opinion of the court.

Amado A. Yatco for defendant and appellant.

Assistant Solicitor General Guillermo E. Torres and *Solicitor Meliton G. Soliman* for plaintiff and appellee.

PEÑA, *J.:*

Luz Talón and Josefina Gavino, together with the latter's son and maid, were on their way home on Dapitan Street between 9 and 10 o'clock in the evening of May 15, 1953. All of a sudden their bags were simultaneously snatched from behind. The handbag of Luz Talón contained ₱85, in cash and a compact, with a total value of ₱100, while that of Josefina Gavino contained ₱45 in cash. Mrs. Talón and Mrs. Gavino fell on the ground. Without losing time they stood up and saw two men running towards a parked jeep which sped away as soon as the latter boarded it. Upon seeing what happened to her mother, Quintin Gavino, son of Josefina, chased the running jeep and was able to remember its number as TPU-617. Immediately, there-

after, the three reported the matter to the police station, giving the number of the jeep. Consequently, the detective bureau issued an alarm for the apprehension of the jeep bearing plate No. TPU–617.

On May 18, 1953, Flaviano Guevarra, who turned to be the driver of the jeep in question, was arrested. As according to Guevarra, his good friend, whom he knew by the nickname of Carling, hired jeep No. TPU–617, while he was driving the same, an information for the crime of robbery was filed against Carlos Lamagna, thus—

"That on or about the 15th day of May, 1953, in the City of Manila, Philippines, the said accused, conspiring and confederating together with three others whose true names and identities are still unknown, and helping one another, with intent of gain and by means of force and violence, to wit: by forcibly snatching, did then and there willfully, unlawfully and feloneously take, steal and carry away against the consent of the owners thereof, two handbags containing cash and other personal property valued at ₱148 belonging to Mrs. Luz Talón and Josefina Gavino, to the aforesaid sum of ₱148 Philippine currency."

After due trial, the lower court found the accused guilty as charged, sentencing him as follows—

"The penalty for the crime committed falls under section 5 of article 294 of the Revised Penal Code which provides for *prisión correccional* in its maximum period to *prisión mayor* in its medium period, but since in this case a motor vehicle was used in the commission of the crime, the penalty to be imposed should be one degree higher which is *prisión correccional* in its medium period to *prisión mayor* in its maximum period. The court therefore imposes upon the accused Carlos Lamagna y Aspiras an indeterminate sentence ranging from 9 years, 4 months and 21 days to 12 years, to indemnify Mrs. Luz Talón in the sum of ₱100 and to pay the cost of this action."

Not satisfied with this decision, the accused appealed and in this instance his counsel maintains that the lower court erred—

1. In convicting the accused upon mere circumstantial evidence;
2. In disregarding the defense of *alibi;* and
3. In not acquitting the accused upon grounds of reasonable doubt.

According to Carlos Lamagna at about 8 o'clock in the morning of May 15, 1953, a certain policeman came to his place asking for help to look for Flaviano Guevarra. Acceding to the request, Carlos accompanied the policeman. In a short time, they saw Guevarra driving a jeep which they boarded upon advice of the policeman. Carlos further claimed that he was left alone in the vehicle which he drove up to 11:30 of that morning when on Dapitan Street, he was joined by Flaviano who then resumed the driving and continued picking up passengers until 3:30 in the afternoon of the same day. Carlos then left Flaviano, taking the whole earnings amounting to ₱2.60, and Guevarra was incensed so much, that in a threatening manner told Carlos that there will be a time when he

will cry. Thereafter, the accused proceeded to the house of his aunt, Nene Aspiras, at Kamuning, Quezon City, to collect a debt in the sum of ₱10 which the latter owed to his mother. As his aunt, the accused further claimed, did not have the amount with which to pay the whole indebtedness she told Carlos to wait for her husband. All the while, he stayed in his aunt's house reading comics and magazines, and at about 8:30 in the evening he even took his supper there. It was already 10 o'clock in the evening when his uncle handed him only the sum of ₱1. At past 10 o'clock, Carlos bade goodbye and went home.

Thus, from the foregoing version of the accused he would like to make us believe that he could not have been the one who hired the jeep of Flaviano Guevarra who harbored a grudge against him for allegedly taking the whole earnings of the jeep. The version of the accused was cleverly interwoven and without a careful analysis of the testimonies of the accused as well as of his witnesses, we could hardly arrive at the guilt of the accused.

There is no dispute that Luz Talón and her sister Josefina Gavino were the victims of the bag snatchers on Dapitan Street between 9 and 10 o'clock in the night of May 15, 1953, in the manner described above. And Flaviano Guevarra, the driver of the precise vehicle which the snatchers used to flee unmistakably pointed Carlos, whom he had known since boyhood, as the one who hired said vehicle. Of course in his efforts to exculpate himself from criminal liability Carlos pretended that in the night in question he was at the house of his aunt, Nene Aspiras, reading "Liwayway"; and that he was even seen by a certain Genoveva Garcia who was allegedly playing *domino*. Unfortunately, however, according to Nene Aspiras, Carlos had been sleeping during the time he was in her house; and that Genoveva Garcia, who claimed to have been playing *domino*, does not even know how to play this game as found out in the course of her testimony. Evidence of this nature, which does not dovetail together are of no moment in interposing the defense of *alibi*.

We have not also failed to notice that Carlos Lamagna would want us to believe that Flaviano Guevarra in testifying against him was impelled by vengeance because Carlos allegedly took all the earnings of the jeep in the sum of ₱2.60. We cannot believe that for a small sum like this, a man would put down another, especially like in the instant case, Flaviano and Carlos were good friends and have known each other since boyhood.

It is also argued that the mere circumstance of the hiring of the jeep by Lamagna and his presence therein when the snatching was pulled out does not prove conspiracy between him and the other men in the vehicle. With these bare circumstances alone, it is really quite difficult to

sustain conspiracy, but when we consider this with the other circumstances, i.e., that it was Carlos who told Flaviano to pick the four persons on Dapitan Street, as they were his companions; that upon reaching a point near the University of Santo Tomas, Carlos ordered Guevarra to cruise around the neighborhood—indicative of looking for prey; and that after pulling the robbery, Carlos and his companions escaped by using the same jeep towards Blumentritt Street where they alighted and gave Guevarra the sum of ₱5 as compensation for the use of his vehicle, we cease to entertain any doubt as to their conspiracy, for all these acts clearly shows that there was a well-planned strategy among Carlos Lamagna and his companions of making money by force and in a fast way with the least risk of being apprehended. The saying goes, that "there is no perfect crime", and as the number of the vehicle was remembered by the son of one of the victims, and its driver fully cooperated with the agents of the law, Carlos Lamagna, one of the perpetrators of the crime in question, unlike his companions for whom he should suffer, cannot elude the corresponding liability for their misdeed.

The trial court found the accused guilty of the crime of robbery as provided and penalized in article 294, paragraph 5, of the Revised Penal Code, and, alleging that in its commission a motor vehicle was used, it imposed a penalty one degree higher to *prisión correccional* in its maximum period to *prisión mayor* in its medium period provided in said article, as amended by Republic Act No. 18. This is an error, because the robbery was not committed in a motor vehicle, but only with the use thereof, and although this circumstance was not alleged in the information, it shall be considered only as an ordinary aggravating circumstance, and not a qualifying one. Therefore, the minimum as well as the maximum periods imposed by the trial court are not in accordance with law. In the instant case, the aggravating circumstances of nighttime and use of motor vehicle are present, not offset by any mitigating circumstance, and, therefore, the penalty provided or *prisión correccional* in its maximum period to *prisión mayor* in its medium period should be imposed in its maximum period, or from 8 years and 1 day to 10 years. Accordingly, we hereby sentence the appellant to an indeterminate penalty of from 6 months and 1 day of *prisión correccional* to 8 years and 1 day of *prisión mayor*.

Wherefore, and with the above modification as to the duration and nature of the penalty of incarceration, the judgment appealed from is hereby affirmed, with costs against appellant.

It is so ordered.

Felix and *Rodas, JJ.*, concur.

Judgment affirmed.

[No. 10166-R. February 19, 1954]

INTESTATE ESTATE OF THE DECEASED LUIS O. LAGDAMEO. RAFAEL O. LAGDAMEO, ET AL., petitioners and appellants, *vs.* SALVADOR LAGDAMEO, assisted by his mother, CONSUELO DAYANDANTE, oppositors and appellees.

1. PATERNITY AND FILIATION; CONCEIVED CHILD CAPABLE OF ACQUIRING RIGHTS; ACKNOWLEDGMENT OF PATERNITY.—It may perhaps be considered as a universal rule of jurisprudence that "a conceived child becomes a bearer of legal rights and is capable of being dealt with as a living person." His condition does not bar him from acquiring rights. The only problem that his condition may give rise to refers to the means and the sources of identification and, in the instant case, the evidence of record is sufficient to identify the child conceived by the mother during her cohabitation with the deceased as the one born of said mother and recognized by the deceased in his love letters, and proves an acknowledgment of paternity on the part of the latter.
2. ID.; NATURAL CHILD; RECOGNITION UNDER THE CIVIL CODE OF 1889.—Under paragraph 1, article 135, of the old Spanish Civil Code of 1889, recognition may be compelled when there exists an indubitable writing of the alleged father in which he expressly acknowledges his paternity. (De Jesus *vs.* Syquia, 58 Phil., 866).
3. ID.; ID.; RECOGNITION UNDER THE NEW CIVIL CODE, RETROACTIVITY.—A father may be obliged to recognize a child as a natural child, according to article 283 of the new Civil Code, "when the child was conceived during the time when the mother cohabited with the supposed father", and "when the child has in his favor any evidence or proof that the defendant is his father." This is one of the articles of the new Code which, pursuant to article 2266 thereof shall have not only prospective but also retroactive effect. Moreover, the provisions of articles 283, 284 and 289 being merely procedural in nature, as they provide for means of proof of filiation, they should, even without the provisions of article 2266, be given retroactive effect irrespective of whether the child was born before or after the effectivity of the new Code.

APPEAL from a judgment of the Court of First Instance of Quezon. Santiago, *J.*

The facts are stated in the opinion of the court.

Francisco Alfonso and *Felix C. Concepcion* for plaintiffs and appellants.

Nicetas A. Suanes for oppositors and appellees.

DIZON, *J.:*

On September 7, 1951 appellants filed in the court below an application for the issuance of letters of administration in the intestate estate of the deceased Luis O. Lagdameo. On October 3, after a hearing thereon, said court appointed Arturo L. Alfonso as administrator. Upon motion for reconsideration filed subsequently by Salvador Lagdameo, a minor, and his mother, Consuelo Dayandante, the lower court vacated the aforesaid order and set the petition for the

issuance of letters of administration for a new hearing on November 27. The hearing was, however, postponed to enable said minor and his mother to present a formal motion for the dismissal of the petition aforesaid. Said motion for dismissal having been filed subsequently and appellants having filed their opposition thereto, the matter was heard but resolution on the merits was held in abeyance because the lower court was of the opinion that the civil status of the minor Salvador Lagdameo should first be determined. The case was therefore set anew for hearing so that the parties could present their respective evidence upon that particular issue.

Thereafter the lower court issued the order appealed from, the dispositive part of which is as follows:

"In view of all the foregoing considerations, oppositor Salvador Lagdameo is declared as the recognized natural son of the deceased Luis O. Lagdameo. The petition for the issuance of letters of administration is DISMISSED and the child's natural mother Consuelo Dayandante may continue in the possession of the estate left by the deceased Luis O. Lagdameo in accordance with the provisions of article 320 of the new Civil Code. No costs."
(Rec. on Appeal, p. 80).

It is not disputed that Luis O. Lagdameo, a resident of Guinayangan, Quezon, disappeared in February, 1942 and has never been seen nor heard from since then, all his relatives and acquaintances having given him up for dead. At the time of his disappearance he was single, without legitimate descendants and his nearest relatives were the herein appellants.

The evidence clearly discloses that since July, 1941 the deceased had had amorous relations with Consuelo Dayandante, then a widow, both having lived as husband and wife at the beginning at the Central Hotel, City of Manila, and later in the municipality of Tagcawayan, Quezon Province, where he introduced Consuelo to his friend, Felipe Gonzalez. As a consequence, on or about September, 1941, Consuelo was begotten with child and a baby boy was born on May 14, 1942.

In connection with the facts mentioned above, it also appears conclusively that the deceased had written and addressed to Consuelo Dayandante the letters now in the record as Exhibits A, A–1, B, B–1, C, C–1 and D. The last three being the vital ones, we transcribe hereinbelow their contents as follows:

"My dearest Con:

"I received your letter yesterday afternoon at six o'clock.

"You know darling, I stayed in the forest during the whole week because of my little business here in Tagkawayan. I've just finished my work late last night. Today, by Bicol Express, I will go to Mambulao with Leon, to transact another business and from Mambulao, I will go to Manila to receive the payments for the rattans

I purchased from Tagkawayan. I will stay one or two days in the City.

"Darling, I can't find words to tell you how happy I am when I learned from you that we are having a ..... I wish she will be a pretty little girl, as pretty as you. You know darling, I can't bear not to see you. I wish I could stay with you all the time. 'I love you'. It's all I can say. If I have time, I will pass there to visit you. I enclose a (Twenty Peso Bill) for you. I did not send it to you by money order for it is so small amount. By the way, how is little Tony? And your mother? I hope, they are all well. Do not worry about your situation Con dear . . . I will be responsible for it. Try to enjoy yourself ha? dear? I am also worried when you are away from me. I can't live in this world without you. I am missing you a lot. I can't forget the way you and your mother received me in your house during my stays there. Both of you are kind and hospitable to me. May be, some way or another, I could repay you both.

"I am sending my best regards to your mother, to little Tony, and to you honey dear.

Your always,

(Sgd.) LUISITO

"P.S.

Ay ko . . . I'll bite you . . . Inda . . . I am so nervous . . . 'cause of the fo ... rest ... primeval. Bye, bye dear.

Same"

(Exhibits C and C-1)

"Tagkawayan, Nov. 4/41

"My dearest Con:

"I received your letter this afternoon and I am glad that you are now feeling better. I have just arrived from Guinayangan. I stayed there for three days with my brothers and sisters. I wish you were with us darling. I told them already that we will have a . . . and they are very happy for the news. Honey dear, I wish I am with you always. When I am not with you, I am awfully lonesome. Within this week, I will go there and visit you. I want to feel your loving arms again. I want again to kiss, to bite those lovely cheeks of yours. I want to see again my 'Forest—Primeval.' By the way, how is everybody in the house? I hope, they are well too.

"So long Honey, sweet kisses to you.

(Sgd.) LUISITO

"P.S.

Business is alright dear, and many thanks for your advice. I will try my best to be economical.

Same"

(Exhibit D)

Aside from the foregoing documentary evidence, the parties introduced testimonial evidence, that of appellant consisting of the testimony of Rafael Lagdameo and that of appellees in that of Felipe Gonzalez and Consuelo Dayandante herself.

The decisive question presented in the case is whether or not the evidence of record is legally sufficient to compel

recognition of the minor Salvador Lagdameo as the natural son of the deceased Luis O. Lagdameo.

To overthrow the affirmative conclusion arrived at by the lower court upon this matter, appellants contend that said court erred in holding that Exhibits C, C–1 and D "refer to the oppositor Salvador Lagdameo as the same foetus which was in the womb of Consuelo Dayandante" and in holding that said exhibits together with Exhibits A, A–1, B and B–1 "have the effect of a recognition of decedent's paternity and filiation of the child Salvador Lagdameo."

As stated heretofore, the fact of Consuelo's pregnancy at about September, 1941 has been established without any serious attempt on the part of appellants to contradict the evidence to that effect. Upon the other hand, that Consuelo gave birth on May 14, 1942 and that the child she then bore was the now-appellee Salvador Lagdameo, has also been established by clear preponderance of evidence, to say the least. The only important question remaining, therefore, is whether Luis O. Lagdameo, before his disappearance, had clearly acknowledged the foetus within the womb of Consuelo to be his son. Upon this point the letters Exhibits C, C–1 and D transcribed above seem to leave very little room for doubt that he did. Said letters are conclusive of the fact that Luis and Consuelo had had amorous relations; that, as a result thereof, Consuelo became pregnant, of which fact Luis was duly informed; that Consuelo's pregnancy, once known to Luis, made him very happy to the extent that he expressed the wish that the fruit of their love "will be a pretty little girl, as pretty as you" (Exhibit C); that Luis himself made his brothers and sisters participants of this knowledge and this made them all happy (Exhibit D).

The claim that the letters in question are mere love letters and do not prove an acknowledgment of paternity, within the meaning of either the old or the new Civil Code, is strongly belied by the letters themselves. We wish to state in this connection that it may perhaps be considered as a universal rule of jurisprudence that "a conceived child becomes a bearer of legal rights and is capable of being dealt with as a living person." His condition does not bar him from acquiring rights. The only problem that his condition may give rise to, refers to the means and the sources of identification and, in the case before us, we have no hesitancy in holding that the evidence of record is sufficient to identify appellee Salvador Lagdameo as the child conceived by Consuelo during her cohabitation with the deceased, as the one born in May, 1942 and recognized by the deceased in the documents under consideration. The language employed by him in said letters, in the light of the other evidence

of record, is not capable of any other construction and proved an acknowledgment of paternity on the part of the deceased.

The question of whether it is the old or the new Civil Code that should control the decision of this case is, to our mind, of no moment, because the evidence of record is sufficient to compel recognition of Salvador Lagdameo as natural child begotten by the deceased Luis with Consuelo Dayandante, under either of said legislations.

Under paragraph 1 of article 135 of the old Spanish Civil Code of 1889, recognition may be compelled when there exists an indubitable writing of the alleged father in which he expressly acknowledges his paternity. In the case of De Jesus *vs.* Syquia (58 Phil., 866) the Supreme Court held that a note written by Cesar Syquia to the priest who was expected to christen the baby expected to be born subsequently as a result of his amorous relations with Antonia Loangco de Jesus stating that "the baby due in June is mine and I should like for my name to be given to it.", is sufficient to make the case fall within the provisions of law under consideration, together with other letters of a similar nature written by the same party to the mother during pregnancy. The present is a similar case. It was further held in the De Jesus case that the recognition does not have to be made out in a single document but may be made out by putting together statements made in more than one document, and that there is no requirement in the law that the indubitable writing be addressed to any particular individual, all that is required being that the same be indubitable. In the case at bar there is no serious discussion as to the authenticity of the letters in question and as to the fact that they were written in full and signed by the deceased.

Upon the other hand, were we to consider and decide the present case in the light of the provisions of the new Civil Code, appellee's right and the judgment appealed from would appear to be stronger. A father may be obliged to recognize a child as a natural child, according to article 283 of the new Civil Code, "when the child was conceived during the time when the mother cohabited with the supposed father", and "when the child has in his favor any evidence or proof that the defendant is his father." This is one of the articles of the new Code which, pursuant to article 2266 thereof, shall have not only prospective but also retroactive effect. Moreover, the provisions of articles 283, 284 and 289 being merely procedural in nature, as they provide for means of proof of filiation, they should, even without the provisions of article 2266, be given retroactive effect irrespective of whether the child was born before or after the effectivity of the new Code.

As stated heretofore, the evidence is clear in this case that the minor Salvador Lagdameo was conceived during the time when the decedent cohabited with Consuelo Dayandante and that he was the one whom the deceased clearly accepted and acknowledged as the fruit of his relations with Consuelo. This, in the light of other evidence showing that the fact of his filiation was recognized by some members of the family of the decedent would seem to be more than sufficient to make the present case fall under the provisions of article 283, paragraph 3 of the new Civil Code.

Upon all the foregoing, we are therefore of the opinion and so hold that the appealed judgment is in accordance with law and the evidence and, therefore, the same is hereby affirmed, with costs.

It is so ordered.

De Leon and *Reyes, JJ.*, concur.

Judgment affirmed.

[No. 7487–R. February 20, 1954]

MARCIAL FERIA, plaintiff and appellee, *vs.* ESTEBAN RICACHO, defendant and appellee

1. FORCIBLE ENTRY AND DETAINER; JURISDICTION; MERE ALLEGATION OF OWNERSHIP NOT ENOUGH TO DIVEST JUSTICE OF THE PEACE OF JURISDICTION.—The mere fact that a defendant in an action of forcible entry and detainer alleges in his answer ownership of the property therein involved does not necessarily divest the justice of the peace court of jurisdiction over the case. It is well-settled that the factor that divests such court of jurisdiction is the necessity of adjudicating the question of title. The only issue in forcible entry and detainer cases being physical possession, if the complaint avers that the plaintiff had prior possession of the premises and a trespasser had deprived him without right of that possession and the prayer of the complaint is limited to the recovery of possession, the justice of the peace is not divested of jurisdiction over the case by the mere claim of ownership by either party to the action, unless the question of title is actually involved in the action and the determination thereof is necessary to determine who has the right to the possession of the premises (Mediran *vs.* Villanueva, 37 Phil., 752; Aquino *vs.* Deala, 63 Phil., 582).
2. ID.; ACTS SUFFICIENT TO SUSTAIN AN ACTION OF FORCIBLE ENTRY AND DETAINER.—It is equally well-settled that in actions of forcible entry and detainer it is not necessary that the trespasser wage war against the party in possession of the real property. The act of going to the property and excluding the lawful possessor therefrom is all that is necessary, for an act committed under such circumstances implies exertion of force over the property, and is an act of usurpation and dispossession sufficient to sustain an action of forcible entry and detainer (Mediran *vs.* Villanueva, *supra;* Santos *vs.* Santiago, 48 Phil., 567; Schultz *vs.* Concepcion, 32 Phil., 1).

APPEAL from a judgment of the Court of First Instance of Zambales. Martinez, *J.*

The facts are stated in the opinion of the court.

Medina & Guinto for defendant and appellant.
P. E. Fontelera for plaintiff and appellee.

NATIVIDAD, *J.:*

This appeal has been brought to reverse a judgment of the Court of First Instance of Zambales ordering the defendant to vacate the lot and house described in the complaint filed in this case and surrender possession thereof to the plaintiff, and to pay the latter the sum of ₱10 every month from February 9, 1949, until the premises shall have been surrendered, without any pronouncement as to costs.

This is a case of forcible entry and detainer. The property involved therein consists of a lot and a house of strong materials built thereon, situated in San Felipe, Zambales. There is a sharp conflict in the evidence presented by the parties. The evidence of the plaintiff, Marcial Feria, shows that this lot and the house built thereon belonged to one Severina Torres. On February 18, 1935, Severina Torres, by means of a public deed, and in consideration of the sum of ₱200, Philippine currency, sold and conveyed said lot and house to one Matilde de Asis (Exhibit "A"). The latter took possession of the premises, resided in the house and had the tax declaration thereof transferred to her name. On January 29, 1944, Matilde de Asis, in turn sold and conveyed these lot and house, by means of a public deed and in consideration of the sum of ₱1,400, occupation currency, to the plaintiff. Immediately after the consumation of this sale, the plaintiff took possession of the premises, had on January 24, 1946, the declaration thereof transferred to his name, and since then has been paying the corresponding land taxes thereon. However, as the plaintiff had a house of his own in the municipality of San Felipe, Zambales, he did not live in the house, but some time in the month of February 1946 allowed one Filomena Aguimatang and her husband to occupy it. This couple lived in the second story of the house until the month of February 1947 without paying any rent therefor. The ground floor of the house was occupied by one Timoteo Polante and his family. Some time in the month of March 1947, the plaintiff allowed one Macario Agloro and his family to occupy the house without requiring him to pay any rent therefor.

In the month of February 1949, one Serafin Fontecha offered to buy the lot and house for ₱4,000. In view of this offer, the plaintiff notified Macario Agloro to vacate the house as he was selling it. On February 6, 1949, Macario Agloro vacated the premises. No sooner, however, then Agloro had vacated the premises, the defendant, Esteban Ricacho, took possession thereof, and denied entrance thereto to Serafin Fontecha, who wanted to see them.

Notified of this incident, the plaintiff immediately went to the premises on February 9, 1949. He found the gate to the lot closed, and when he asked the defendant why he had closed it, the latter answered that he could file an action against him if he wanted to. Hence, this action of ejection.

The evidence of the defendant tends to show that the premises in question belonged, the lot to his father Pedro Ricacho, and the house, to his aunt Severina Torres, who promised to leave it upon her death to him and his brothers; that when Severina Torres died on June 19, 1942, the defendant and her brother and sisters occupied the house; that in March 1947, the defendant allowed one Macario Agloro to live in the house on condition that the latter would pay him fifteen cavans of palay; that Macario Agloro lived in the house until the month of February 1949; that after Macario Agloro had vacated the house the defendant and his brothers reoccupied the same and bought from the former the pump which he had installed therein; and that up to the present the defendant and his brothers are in possession of the premises.

The main questions raised by the appellant in this appeal are: First, whether or not the lower court erred in not dismissing this action and in proceeding to try it on the merits in the exercise of its appellate jurisdiction; and, second, whether or not the lower court erred in ordering the defendant to vacate the premises and surrneder possession thereof to the appellee, and to pay the latter ₱10 a month as reasonable compensation for their occupancy from February 9, 1949 until the premises are surrendered. The other questions raised are either subordinated to these main questions or their determination in this appeal is not necessary.

Appellant contends under the first proposition that as he had raised the defense of ownership of the lot and house involved in this action in his pleadings filed both in the justice of the peace court of San Felipe where this case was initiated as well as in the Court of First Instance of Zambales, the former court was divested of jurisdiction over the action, and the latter should have confined itself to dismissing the case in the exercise of its appellate jurisdiction, instead of proceeding to hear and determine it on the merits.

We are of the opinion that appellant's contention is untenable. The mere fact that a defendant in an action of forcible entry and detainer alleges in his answer ownership of the property therein involved does not necessarily divest the justice of the peace court of jurisdiction over the case. It is well-settled that the factor that divests such court of jurisdiction is the necessity of adjudicating the question of title. The only issue in forcible entry and

detainer cases being physical possession, if the complaint avers that the plaintiff had prior possession of the premises and a trespasser had deprived him without right of that possession and the prayer of the complaint is limited to the recovery of possession, the justice of the peace is not divested of jurisdiction over the case by the mere claim of ownership by either party to the action, unless the question of title is actually involved in the action and the determination thereof is necessary to determine who has the right to the possession of the premises (Mediran *vs.* Villanueva, 37 Phil., 752; Aquino *vs.* Deala, 63 Phil., 582).

In the instant case, the complaint clearly avers that the plaintiff had prior possession of the premises involved in the action, and that the defendant had deprived him of such possession without any right within the period of one year. The remedy therein applied for is only for the restoration of the plaintiff in the possession of the property. There is no showing that the question of ownership of the property is actually involved in this case, and that the determination of such ownership is necessary to decide who was the prior possessor thereof. We, therefore, hold that the justice of the peace court of San Felipe was not divested of its jurisdiction over the action. That court as well as the Court of First Instance of Zambales committed no error in assuming jurisdiction over the same and in trying and deciding it on the merits.

The question raised in the second proposition is one of fact which has to be decided upon the evidence of record. As already observed elsewhere in this decision, the statements of the witnesses on the question who was in prior possession of the property in question is conflicting. The trial judge, who for obvious reasons is in a better position than us to evaluate the credibility of contending witnesses, found that the plaintiff was in prior physical possession of the premises, and that such possession began after he had bought them from one Matilde de Asis on January 29, 1944, and it was continued up to February 9, 1949, when the defendant took possession thereof and excluded him therefrom. After a careful study of the record, we find that such finding is supported by a preponderance of the evidence and should not be disturbed. The statements of the appellee and his witnesses on this point appear natural, clear and convincing, and the same has not been successfully overthrown by the evidence of the appellant.

The appellant, however, contends that as it has not been shown that the defendant in turning the plaintiff out of the possession of the property, used force, intimidation, threat, strategy or stealth, this action cannot be maintained. This view is untenable. It is equally well-settled that in actions of forcible entry and detainer it is not necessary that the trespasser wage war against the party in possession

of the real property. The act of going to the property and excluding the lawful possessor therefrom is all that is necessary, for an act committed under such circumstances implies exertion of force over the property, and is an act of usurpation and dispossession sufficient to sustain an action of forcible entry and detainer (Mediran *vs.* Villanueva, *supra;* Santos *vs.* Santiago, 48 Phil., 567; Schultz *vs.* Concepcion, 32 Phil., 1).

We, therefore, hold that the judgment appealed from is in accordance with law and supported by the evidence. Consequently, the same is hereby affirmed, with the costs taxed against the appellant.

It is so ordered.

Reyes, Pres. J., and *Paredes, J.*, concur.

Judgment affirmed.

[No. 10810–R. February 20, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* JESUS MARCIAL, defendant and appellant

CRIMINAL LAW; QUALIFIED TRESPASS TO DWELLING BY MEANS OF VIOLENCE AND INTIMIDATION; IMPLIED PROHIBITION.—While it is true that the window was open when the defendant passed through it in order to gain entrance into the house, there is an implied prohibition when entrance is made through means not intended for egress. Again, contrary to the contention of appellant's counsel, violence and intimidation does not only relate to the method by which one may pass the threshold of the dwelling of another without his consent, but also to the conduct, immediately thereafter, of him who enters a house of another without his consent (U. S. *vs.* Arceo, 3 Phil., 381).

APPEAL from a judgment of the Court of First Instance of Samar. Fernandez, *J.*

The facts are stated in the opinion of the court.

Jacinto R. Bohol for defendant and appellant.

Assistant Solicitor General Lucas Lacson and *Solicitor Mariano M. Trinidad* for plaintiff and appellee.

DE LEON, *J.:*

In the Court of First Instance of Samar, appellant Jesus Marcial, together with Fausto Doinog and Emilio M. Milka, were charged with frustrated murder (Criminal Case No. 2705) and trespass to dwelling (Criminal Case No. 2763). After due trial, they were convicted of only slight physical injuries in the first case, and qualified trespass to dwelling, as charged, committed by means of violence and intimidation in the second case. In this appeal, defendant Jesus Marcial claims that his guilt in the second case (Criminal Case No. 2763) has not been proven beyond reasonable doubt and, therefore, the lower court erred in sentencing

him to suffer an indeterminate penalty of from 2 years and 4 months to 4 years and 9 days of *prision correccional,* to pay a fine of ₱500, with subsidiary imprisonment in case of insolvency, and the costs.

Early in the evening of April 7, 1952, in barrio Samuyao, Gandara, Samar, accused Fausto Doinog challenged Crisologo Perito to a fight, but the latter did not accept the challenge. It would seem that the lieutenant of the barrio heard of this incident, so that he ordered 3 rural policemen, one of whom was Apolonio Nobez, to patrol the barrio that night, particularly around the vicinity of the house of Crisologo Perito. Later, that same evening, Fausto *Doinog*, Emilio Milka, Jesus Marcial, Clemente Herrera and Honofre Bandoken went to the store of said Crisologo Perito to drink. The store is located on the ground floor of the house of Perito, which is inhabited by him, his wife and a son. That same evening, one Santiago Diaz spent the night with the Peritos. It would also seem that Fausto Doinog, apparently under the influence of liquor, heard his (Doinog's) name mentioned by the people who were conversing upstairs in the house of the Peritos. Infuriated, and finding that the door of the house was closed, Fausto Doinog scaled and entered the said house by passing through the window, followed by his co-accused, Emilio Milka and Jesus Marcial.

According to Crisologo Perito and Santiago Diaz, Fausto Doinog tried to stab said Diaz inside the house. Failing in this, Doinog gave Santiago Diaz a thrust with his bolo, wounding the latter on the right hand between the thumb and forefinger. At this juncture, Milka and Marcial held and punished said Santiago Diaz, inflicting on him a lacerated wound on the left eyebrow and a contused wound with swelling on the left lower eye-lid. Seeing himself wounded, Diaz knelt before Doinog and asked to be spared, so that Doinog and his companions left him. The defendants looked for Perito, but the latter was nowhere to be found because during the incident, said Perito, his wife and son, left their house by passing through a nipa siding of the house.

Appellant Marcial claims that he was not with his co-defendants at the time they allegedly entered the house of Crisologo Perito. He said that he was in the house of Fausto Doinog, where he lived, cooking porridge for his wife who was then sick.

We have gone carefully over the evidence of record, and we have arrived at the conclusion that the guilty participation of appellant Marcial in the commission of the crime charged in the present case has been established beyond reasonable doubt. The prosecution witnesses, Crisologo Perito, Santiago Diaz and Apolonio Nobez, have no reason to implicate the appellant because the said ap-

pellant himself admitted that he and the prosecution witnesses, together with their respective wives, entertained no ill-feelings against each other. While the evidence of record would indicate that only Fausto Doinog had reasons to be angry, it is highly probable that appellant Marcial followed Doinog in forcibly entering the house of Crisologo Perito, against the latter's will, in order to help or give moral support to said Doinog because the wife of Doinog is his (appellant's) aunt. Appellant Marcial even revealed that his said aunt cared for him until he grew up.

The lower court also did not err in concluding that the offense was committed by means of violence and intimidation. While it is true that the window was open when the defendants passed through it in order to gain entrance into the house, there is an implied prohibition when entrance is made through means not intended for egress. Again, contrary to the contention of appellant's counsel, violence and intimidation does not only relate to the method by which one may pass the threshold of the dwelling of another without his consent, but also to the conduct, immediately thereafter, of him who enters the house of another without his consent (U. S. *vs.* Arceo, 3 Phil., 381).

Wherefore, no reversible error having been committed by the lower court, the decision appealed from is hereby affirmed in all its parts, with costs against appellant. So ordered.

Reyes and *Dizon, JJ.*, concur.

Judgment affirmed with costs against appellant.

[No. 9623-R. February 25, 1954]

ILUMINADO PLANAS and CONCEPCION R. LIM DE PLANAS, plaintiffs and appellants, *vs.* GONZALO GAWHOK, defendant and appellee.

SALE; ANNULMENT; PARTIES IN "PARI DELICTO"; SUBSEQUENT NATURALIZATION OF CHINESE VENDEE; APPLICATION OF KRIVENKO DOCTRINE, "QUAERE."—Regarding appellants' contention that the questioned sale must be voided because the vendee is a Chinese citizen, all we need say is firstly, that according to the record, if such contention be true, both parties are in *pari delicto* and, for this reason, appellants are not entitled to the remedy they seek, and secondly, that appellee having become, after the sale, a naturalized Filipino citizen, the doctrine enunciated in the Krivenko case would seem to be of doubtful application, to say the least.

APPEAL from a judgment of the Court of First Instance of Manila. Encarnacion, *J.*

The facts are stated in the opinion of the court.

Arcadio Ejercito for plaintiff and appellant.
Yuseco, Abdon & Yuseco for defendant and appellee.

DIZON, *J.*:

This is an appeal from the decision of the Court of First Instance of Manila dismissing the complaint filed by plaintiffs-apellants and sentencing them to pay the defendant-appellee the sum of ₱1,698.80 and the costs of suit.

Appellants commenced this action for the annulment of the deed of sale now in the record as Exhibit A and to compel appellee to accept from them the sum of ₱11,698.80 in reimbursement of the same amount that he had paid on their behalf to Massey Teague. Appellee relied upon the defense that the sale in question had been validly consummated, he having acquired absolute title to the properties subject-matter thereof; and by way of counterclaim he asked for judgment in the sum of ₱1,698.80 in reimbursement of a similar amount that he had paid to Massey Teague, on behalf of appellants, as interests due on a mortgage loan contracted by them in favor of said party.

The five assignments of error made in appellants' brief may be reduced to the claim that the trial court erred in not holding that the deed of absolute sale Exhibit 1 had been cancelled; that the ₱38,000 paid by appellee to appellants had been returned to him; that, as a consequence, the trial court also erred in not rendering judgment compelling appellee to receive from appellants the sum of ₱11,698.80 which the latter had paid to Mr. Teague pursuant to a subsequent understanding that they had with said appellee.

After a careful review of the evidence we find that on May 23, 1945, appellant Concepcion Lim de Planas, with the consent of her husband, executed the deed of absolute sale Exhibit 1 in connection with the five parcels of land located in Manila therein described for the total sum of ₱48,000, of which ₱38,000 were paid at the time of execution thereof, the remaining ₱10,000 to be paid upon delivery by the vendor to the vendee of the owner's duplicate certificate of title and the deed of cancellation of the mortgage existing on the properties, in favor of Mr. Teague, within 15 days from the date of the contract.

It appears that, for one reason or another, appellants failed to comply with their obligation to free the properties from the mortgage existing thereon and to deliver the certificate of title thereof, this having compelled appellee to negotiate directly with Massey Teague, who hold the ₱10,000 mortgage on the properties, to whom he paid the total sum of ₱11,698.80, the ₱1,698.80 representing unpaid interests.

The record likewise shows that since the date of the sale appellee took over the possession of the properties,

filed ejectment suits against some occupants, collected the rentals due thereon and constructed a building.

Appellants admit the execution of the deed of sale in question but they claim that one day after its execution appellee came to see them and told them that he did not want to go on with the sale, to which they agreed; that as a consequence, appellants left with appellee two certificates of title of properties located in Cabiao and Cabanatuan, Nueva Ecija, to be held as a sort of security until after they had paid back the ₱38,000 received from appellee; that several days thereafter, the said amount was paid back to appellee from whom they received a note cancelling the sale, which note, according to them, had been lost. It is likewise the claim of appellants that almost two years after the transaction just mentioned they entered into another with appellee whereby the latter agreed to pay on their behalf their mortgage debt of ₱10,000 in favor of Massey Teague, to whom in fact he paid the total sum of ₱11,698.80 representing the mortgage debt and unpaid interests. Upon these facts appellants claim to be entitled to the remedies prayed for in their complaint.

The evidence of records is overwhelmingly against appellants' contention. If it were true that the contract of sale had been cancelled upon appellee's own request, appellants would have been satisfied with nothing short of a notarial document of resale or at least of one formally cancelling the deed of absolute sale in question. The claim that appellee gave them a written note cancelling the said deed of absolute sale is totally unsupported by credible and umbiased evidence. Moreover, that the contract of sale was never cancelled is shown by the fact that the vendee immediately took possession of the properties and never relinquished possession thereof thereafter, and by the further circumstance that, in view of appellants' failure to discharge the mortgage lien in favor of Teague, appellee dealt directly with the latter and discharged the mortgage. Appellee likewise enforced his rights of ownership over the properties by filing ejectment cases against some of the tenants and collecting rents from the others. All these facts and circumstances strongly support the view that the sale in question was never cancelled.

It being admitted by appellants themselves that appellee paid to Massey Teague the total sum of ₱11,698.80, the conclusion is inescapable that they are now in duty bound to reimburse to the latter the sum of ₱1,698.80, the bigger amount of ₱10,000 having been applied in payment of the unpaid balance of the purchase price.

Regarding appellants' contention that the questioned sale must be voided because the vendee is a Chinese citizen, all we need say is firstly, that according to the

record, if such contention be true, both parties are in *pari delicto* and, for this reason, appellants are not entitled to the remedy they seek, and secondly, that appellee having become later a naturalized Filipino citizen, it would be doubtful, at least, whether we can now apply to the transaction under consideration the doctrine enunciated in the Krivenko case.

With what we have said heretofore, we consider all the assignments of error made in appellants' brief as fully disposed of.

Wherefore, the appealed judgment being in accordance with law and the evidence, the same is hereby affirmed, with costs.

It is so ordered.

Reyes and *De Leon, JJ.*, concur.

Judgment affirmed.

[No. 11020–R. February 25, 1954]

PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.* WALTER OTTO, JR., defendant and appellant

CRIMINAL LAW; DISCOVERING SECRETS THROUGH SEIZURE OF CORRESPONDENCE; ARTICLE 290, REVISED PENAL CODE.—It is well that the address be verified first if and when a closed communication is opened, but failure to take that precaution is neither a wrongful act, specially under the circumstances of the instant case. To be guilty of the felony defined in article 290 of the Revised Penal Code, one must seize another's papers for the purpose of discovering his secrets. Thus, before opening a closed paper, he must be dictated by the desire to discover secrets.

APPEAL from a judgment of the Court of First Instance of Manila. Encarnacion, *J.*

The facts are stated in the opinion of the court.

Quijano, Alidio & Azores for defendant and appellant.

Assistant Solicitor General Francisco Carreon and *Acting Solicitor Antonio Consing* for plaintiff and appellee.

MARTINEZ, *J.*:

Found guilty of violation of article 290 of the Revised Penal Code and sentence to an indeterminate penalty of from 3 months and 11 days of *arresto mayor* to 1 year, 8 months and 21 days of *prisión correccional*, and to pay a fine of ₱300 or suffer subsidiary imprisonment in case of insolvency, with costs, Walter Otto, Jr. comes now on appeal alleging:

"1. The trial court erred in finding that "while there was good faith on the part of the accuse when he did open it for the first time the said cablegram, that good faith was destroyed after he delayed the delivery of the same and later had the corresponding petition for attachment prepared by his attorney." (decision p. 5)

"2. The trial court erred in not dismissing the case against the herein accused if for no other reason than that the prosecution presented, and the court admitted into the evidence of record, Exhibit C. (t. s. n. p. 98)

"3. The trial court erred in finding the accused guilty as charged in the information as provided for and penalized under article 290 of the Revised Penal Code, despite the utter failure of the prosecution to establish beyond all reasonable doubt the requisite specific intent indispensable for a conviction thereunder."

In October, 1951, aggrieved party Salvador Neri was on a business trip in the United States when on the 12th of that month he sent via RCA a cablegram to the Amalgamated Minerals Inc., a corporation of which he was the president. It reads as follows:

"SMD1105
"RFD448
"SF/LX647 OFD NEW YORK 17 11 1627
"AMALGAM MANILA
"PHIBRO REMITTED TWELVE THOUSAND DOLLARS TODAY BALANCE BY MAIL MORE NEXT WEEK BEST REGARDS
"NERI
"CPM LI647 OR AMALGAM"

(Exhibit D)

This cablegram was delivered to the office of Otto at room 500 Samanillo Building situated at the Escolta, Manila, and received by the office janitor. When Otto arrived at past ten on the morning of that day he found cablegrams and letters in closed envelopes piled upside down on his table. He opened them one after the other and found among them the cablegram in question which he could not understand at first, because the name of the addressee was in Code. Convinced that it was delivered to his office through mistake, he instructed his secretary, one Mrs. Peralta, to ask the RCA to get it back and redeliver it to the proper party. A messenger of the RCA came at about four o'clock in the afternoon, picked up the cablegram and handed it to the right addressee whose office was at Room 511 in the same building. Immediately, Mr. Teodoro Galagar, the accountant of the Amalgamated Minerals, Inc., went to the National City Bank of New York to withdraw the money announced in the cable. He found the Bank already closed and the following day being Saturday when no banking transaction could be made, he had to wait until next Monday. When Galagar went again to the Bank that Monday he was informed that the money was garnished through an error issued in the civil case for recovery of sum of money then pending between Walter Otto, Jr. and the Amalgamated Minerals, Inc. The garnishment was later lifted after a counterbond had been put up.

Thus, concisely recounted, are the facts of the case on record. Otto explained that he opened the cablegram in the belief that it was addressed to him.

The prosecution, as may be gleaned from the record, offered no stronger incriminatory evidence that that the cablegram was opened by appellant; that after opening, he (presumably) retained it until four o'clock in the afternoon to forestall the withdrawal of the money that day; that he communicated the secret he had discovered to his counsel and caused the garnishment of the money in the civil case referred to. The lower court, among others, said:

"The Court cannot sustain the theory of the accused of good faith. The evidence adduced by the prosecution during the trial of this case contradicts the very theory of the accused of good faith. As stated above, when the accused opened the said cablegram for the first time there might have been good faith, but his subsequent acts destroys that very essence of his defense, because, instead of returning the said cablegram (Exhibit D) he contracted his counsel in order to prepare the aforesaid urgent exparte motion for preliminary attachment (Exhibit E) and thereafter a garnishment (Exhibit E–1). Is that good faith, as alleged by the accused? His subsequent acts have destroyed it. Furthermore, the delay in the delivery of the said cablegram (Exhibit D) or the return of the same to the RCA Communications indicates a desire on the part of the accused to have enough time with which to file the aforesaid urgent motion, in order to prevent the Amalgamated Minerals Inc. from withdrawing the sum of ₱24,000 so that he may be able to attach ₱17,000 thereof." (pp. 5–6, original decision)

We cannot agree with this conclusion, for it overlooks the fact testified to by Otto, and which was not contradicted, that between eleven and twelve in the morning, realizing that the cablegram was misdelivered to Room 500, Otto caused his secretary to advise the RCA to take it back, but that the RCA messenger did not show up until four o'clock in the afternoon. It is to be noted that Otto was not under any legal obligation to redeliver the misdelivered cablegram to the proper addressee.

But, in truth, the main issue is whether appellant, in order to discover a secret, seized the cablegram in question. We believe, as Otto said, that he opened the cablegram by mistake. It is a fact that he found it on his table mixed with other cablegrams addressed to him, thus the probability that he should have believed that it likewise belonged to him is perfectly tenable. Men's daily experience shows that. It is well that the address be verified first if and when a closed communication is opened, but failure to take that precaution is neither a wrongful act, specially under the circumstances of the instant case. The law on the matter is clear, it provides as follows:

"ART. 290. *Discovering secrets through seizure of correspondence.*— The penalty of *prisión correccional* in its minimum and medium periods and a fine not exceeding 500 pesos shall be imposed upon

any private individual who, in order to discover secrets of another, shall seize his papers or letters and reveal the contents thereof."

To be guilty of the felony thus defined one must seize another's papers for the purpose of discovering his secrets. Thus, before opening a closed paper, he must be dictated by the desire to discover secrets. It has not been shown, however, that appellant was beforehand inforced, or even had a hint, of the content of the cablegram in question, and subsequently, he could not have possibly seized it for the purpose of discovering a secret.

Walter Otto, Jr. is hereby acquitted, with costs *de oficio*.

Gutierrez David and *Rodas, JJ.*, concur.

Judgment reversed.

[No. 11438-R. February 25, 1954]

THE PEOPLE OF PHILIPPINES, plaintiff and appellee, *vs.* ATANACIO BOOL and PERFECTO BOOL, defendants and appellants.

1. CRIMINAL LAW; HOMICIDE; SELF-DEFENSE; IMMAGINARY AGGRESSION, NOT SUFFICIENT TO SUSTAIN SELF-DEFENSE.—In order that the pleas of self-defense may prosper, it must be established by clear and convincing evidence that the accused was the victim of unlawful aggression; that the means employed to repeal the aggression were rational, and that there was no provocation on the part of the victim. An imaginary aggression is not enough to sustain legitimate self-defense (People *vs.* De la Cruz, 61 Phil., 422). And when the person invoking the defense is the aggressor, the employment of any means by him in furtherance of the aggression cannot be considered rational means to repel an illegal aggression.
2. ID.; ID.; AUTHOR OF WOUNDS INFLICTED BY TWO ACCUSED UPON DECEASED, NOT DETERMINED; LIABILITY.—When the death of a person is the result of the several wounds inflicted upon him by two accused and it has not been shown which wounds were inflicted by one and which by the other, both accused are liable for the death of said person and each of them is guilty of homicide (People *vs.* Abiog, 37 Phil., 137).

APPEAL from a judgment of the Court of First Instance of Oriental Mindoro. Ramos, *J.*

The facts are stated in the opinion of the court.

Crispin L. Jandusay for defendants and appellants.

Assistant Solicitor General Guillermo E. Torres and *Solicitor Rafael Cañiza* for plaintiff and appellee.

NATIVIDAD, *J.:*

This appeal has been brought to reverse a judgment of the Court of First Instance of Oriental Mindoro, convicting the appellants of the crime of homicide and sentencing them to suffer the indeterminate penalty of from 8 years

and 1 day of *prisión mayor* to 17 years, 4 months and 1 day of *reclusión temporal,* to indemnify, jointly and severally, the heirs of the deceased Sebastian Sukyat, in the sum of ₱6,000, and to pay the costs.

It appears in evidence that in the afternoon of March 20, 1951 appellant Atanacio Bool had a quarrel with Nicasio Sukyat, a son of the deceased, Sebastian Sukyat. In the course of that quarrel Atanacio gave Nicasio a blow with a club which hit the latter at the jaw. This incident, however, did not produce any serious result, as the parties separated immediately.

At about midnight of that same day Atanacio Bool and his brother, appellant Perpetuo Bool, arrived at the yard of the house of one Gliceria Nuestro in the barrio of Pinagsabangan No. 1, Naujan, Oriental Mindoro, where a reading of the Passion of Our Lord Jesus Christ was being held. At that instant Nicasio Sukyat and his father, Sebastian Sukyat, were in the house, the former, in the second floor where the reading of the passion was held, and the latter, in the kitchen chopping meat. No sooner than Atanacio and Perpetuo, who were both armed with drawn daggers, had arrived, they issued a challenge to any brave man in the house to come out for a fight. As none accepted the challenge, Atanacio called for Nicasio to come down. After a while, noticing that Nicasio was not coming down, Atanacio and Perpetuo went up the house. Sebastian, evidently noticing that the appellants were after his son, came out of the kitchen armed with a knife. Atanacio and Perpetuo, upon seeing Sebastian immediately attacked him and a struggle ensued. In the course of that struggle all the three combatants got wounded. Atanacio and Perpetuo recovered from their wounds, but Sebastian died on the following day at the municipal building of Naujan, Oriental Mindoro, where he was taken for treatment, as a consequence of the hemorrhage produced by the wounds he sustained, particularly that on the right arm which cut several blood vessels.

It is admitted that the appellants had a fight with Sebastian Sukyat in the night of March 20, 1951, in the house of Gliceria Nuestro, and that as a consequence of the wounds sustained by the latter in the course of that struggle he died in the morning of the following day. Appellants, however, contend that the trial court erred in not holding that they inflicted on Sebastian Sukyat the wounds that resulted in his death in legitimate self-defense, and, consequently, in not acquitting them of the charge, or, at least, giving them the benefits of the privilege of mitigating circumstance of incomplete self-defense.

We do not see the force of the contention. In order that the plea of self-defense may prosper, it must be established by clear and convincing evidence that the accused was

the victim of unlawful aggression; that the means employed to repel the aggression were rational, and that there was no provocation on the part of the victim. The facts of this case, as narrated above, clearly show that these three elements of self-defense have not concurred in the case at bar. Not only were the appellants not the victims of any aggression on the part of the deceased, but they were the aggressors. It is true that the deceased was armed when he emerged from the kitchen, but it does not appear that he was in a menacing or fighting mood, or he had made any move or adopted any attitude to attack the appellants. The deceased's purpose in coming out might have been to plead with the appellants to forget the past and not to harm his son, or just to remind them that his son would not be alone in case there would be a fight. It is not improbable that the appellants imagined that the deceased was ready to attack, but an imaginary aggression is not enough to sustain legitimate self-defense (People *vs.* De la Cruz, 61 Phil., 422). (It is also clear that the second element of the defense was lacking. The appellants being the aggressors, the employment of any means by them in furtherance of the aggression cannot be considered rational means to repel an illegal aggression. As to the element of provocation, the evidence clearly shows that no provocation on the part of the deceased had preceded the aggression at bar. Upon the evidence of record, therefore, the plea of self-defense set up by the appellants is unmaintainable. And as it is clearly established by the evidence that the deceased, Sebastian Sukyat, died as a result of the several wounds inflicted upon him by the appellants, and it has not been shown which wounds were inflicted by Atanacio and which by Perpetuo, both appellants are liable for the death of said deceased, and each of them is guilty of homicide (People *vs.* Abiog, 37 Phil., 137).

We, therefore, find that the trial court committed no error in finding the appellants guilty as principals of the crime of homicide, and in not appreciating the attendance therein of any circumstance modificative of criminal responsibility in their favor. The penalty, however, imposed upon them is not within the range prescribed by law. The crime of homicide prescribed and punished in article 249 of the Revised Penal Code is punishable by *prisión temporal* to its full extent. As the crime at bar was not attended by any circumstance modificative of criminal responsibility, either aggravating or mitigating, this penalty should be imposed in its medium period, and, applying the indeterminate sentence law, the appellants should have been sentenced to the indeterminate penalty of from 6 years and 1 day of *prisión mayor* as minimum, to 14 years, 8 months and 1 day of *reclusión temporal* as maximum. The penalty

therefore, imposed upon the appellants in the judgment appealed from should be modified accordingly.

Wherefore, modified as indicated above, the judgment appealed is hereby affirmed in all other respects, with the costs taxed against the appellants.

It is so ordered.

Reyes, Pres. J., and *Paredes, J.*, concur.

Judgment affirmed.

[No. 7173–R. March 3, 1954]

FELIXBERTO GONZALES, plaintiff and appellant, *vs.* PHILIPPINE NATIONAL BANK and F. A. MANALO, defendants and appellees.

MANDAMUS; MANDAMUS NEVER LIES TO ENFORCE PERFORMANCE OF CONTRACTUAL OBLIGATION.—A contractual obligation is not a duty specifically enjoined by law resulting from office, trust or station (Vol. 2, p. 181, 1952 ed. Comments on Rules of Court). Thus, it has been held that mandamus never lies to enforce the performance of a contractual obligation (Florida Central & Peninsular R. Co. *vs.* State ex rel. Tambere, 20 L. R. A. 419; City of Manila *vs.* Posadas, 43 Phil., 309), for the petitioner's remedy is an original action in the court of first instance for specific performance (Quioque *vs.* Romualdez, 46 Phil., 337; Jacinto *vs.* Director of Lands, 49 Phil., 853).

APPEAL from a judgment of the Court of First Instance of Zamboanga. Villalobos, *J.*

The facts are stated in the opinion of the court.

T. de los Santos for plaintiff and appellant.
Ramon B. de los Reyes, for defendants and appellees.

PEÑA, *J.:*

Felixberto Gonzales filed a petition for mandamus in the Court of First Instance of Zamboanga on November 15, 1950, alleging that he purchased from one Nieves Darnell for the sum of ₱11,000 a parcel of land together with its improvements, situated in Baliuasan, City of Zamboanga, known as lot No. 205 of the "Expediente No. 7880", and particularly described in the Transfer Certificate of Title No. RT–92 (975), which sale is subject to the mortgage of the same land in favor of the Philippine National Bank for ₱7,000 (Exhibit "A"). According to Gonzales on November 8, 1950, he paid the creditor mortgagee the sum of ₱7,000 but in spite of this the acting branch manager of the Philippine National Bank in Zamboanga refused to issue a deed of cancellation of the mortgage as well as to deliver the Transfer Certificate of Title No. RT–92 (975) to him. Consequently, Gonzales averred in the petition that damage was being caused to him in the amount of ₱20,000, and having no other plain, speedy

and adequate remedy in the ordinary course of law, but this petition for mandamus, he prays that judgment be rendered, ordering F. A. Manalo, acting branch manager of the Philippine National Bank in Zamboanga to issue immediately the corresponding deed of cancellation of mortgage over the land described in Transfer Certificate of Title No. RT–92 (975) to Gonzales, to pay him, by way of damages, the sum of ₱20,000 and to award him other reliefs just and equitable in the premises.

On being required to answer the aforesaid petition, the Philippine National Bank filed a motion to dismiss the same, to which Gonzales filed his reply.

On the basis of the pleadings filed by the parties, the lower court issued the order on December 6, 1950, dismissing the petition for mandamus on the ground that this remedy does not lie under the facts alleged in the petition, and that in lieu thereof Felixberto Gonzales should institute an ordinary civil action to enforce his pretended rights over the property in question, against the respondent Philippine National Bank. Not satisfied with said order, the petitioner appealed to us, assigning four errors to it and praying for the reversal of the order. The alleged errors may be reduced to the following proposition. Did the Philippine National Bank thru, its acting branch manager in Zamboanga City, unlawfully neglect the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully exclude the petitioner from the use and enjoyment of a right to which he is entitled, and is there any plain, speedy and adequate remedy available in the ordinary course of law other than an action for mandamus?

It is to be noted, in passing upon the merits of the appeal, that the action filed in the lower court was to compel the acting branch manager of the Philippine National Bank in Zamboanga City to execute a deed of cancellation of mortgage of the parcel of land in dispute, and we know of no law that imposes upon the respondent manager as a legal duty inherent to his office, the performance of the act demanded of him in this case. In the second place, the existence of a contract of mortgage between the mortgagee bank on one hand and the former owner of the parcel of land, the mortgagor, on the other, is not denied, and the next previous question to be considered is whether or not Felixberto Gonzales, who claims to have acquired the property from the mortgagor, has fulfilled, to the satisfaction of the bank, *all* the obligations contracted by the former debtor to the creditor bank, and certainly, a mere allegation that the obligation of the mortgagor has already been fulfilled is not sufficient, for it requires conclusive or at least preponderant proofs of that fact which cannot be produced in proceedings for mandamus

for they fall beyond the scope of such action. Anyway, in the instant case there is no satisfactory basis to order the cancellation of the mortgage contract existing between the mortgagee bank and the owner of the land described in the Transfer Certificate of Title No. RT–92 (975).

Moreover, according to Chief Justice Moran a contractual obligation is not a duty specifically enjoined by law resulting from office, trust or station (Vol. 2 p. 181, 1952 Ed. Comments on Rules of Court). Thus, it has been held that mandamus never lies to enforce the performance of a contractual obligation (Florida Central & Peninsular R. Co. *vs.* State ex rel. Tambere, 20 L.R.A. 419; City of Manila *vs.* Posadas, 48 Phil., 309), for the petitioner's remedy is an original action in the court of first instance for specific performance (Quioque *vs.* Romualdez, 46 Phil., 337; Jacinto *vs.* Director of Lands, 49 Phil., 853).

In view of the foregoing, we hold that the branch manager of the Philippine National Bank in Zamboanga City did not neglect the performance of an act which the law specifically enjoins as a duty resulting from his office, much less did he unlawfully exclude Felixberto Gonzales, who is not without any other plain, speedy, and adequate remedy in the ordinary course of law, from the use and enjoyment of a right or office to which he is entitled. Consequently, we declare that the lower court correctly dismissed the petition for mandamus.

Wherefore, the order appealed from is hereby affirmed, with costs in this instance against the petitioner.

It is so ordered.

Felix and *Rodas, JJ.*, concur.

Judgment affirmed.

COURT OF INDUSTRIAL RELATIONS

PURSUANT TO SECTION 12(*a*) OF REPUBLIC ACT NO. 875, THE FOLLOWING RULES ARE HEREBY PROMULGATED:

RULE I

PETITION FOR CERTIFICATION

SECTION 1. *Contents of petition for certification.*—

(*a*) A petition for investigation of a question concerning representation of employees under section 12 of Republic Act No. 875, shall be in writing and sworn to before the Clerk of Court of the Court of Industrial Relations or any of his deputies, or before any other person duly authorized by law to administer oaths.

(*b*) A petition for certification, filed by a labor organization or a group of employees, shall contain the following:

(1) The name of the employer;
(2) The address of the establishments involved;
(3) The general nature of the employer's business;
(4) A description of the bargaining unit which the petitioner claims to be appropriate;
(5) The names and addresses of any other labor organizations which claim to represent employees in the alleged appropriate unit;
(6) The number of employees in the alleged appropriate unit;
(7) The name, affiliation, if any, and address of the petitioner;
(8) Any other relevant facts;

(*c*) A petition for certification, when filed by an employer, shall contain the following:

(1) The name and address of the petitioner;
(2) The general nature of the petitioner's business;
(3) The names of the labor organizations claiming to be recognized as the exclusive representatives of all employees in the unit claimed to be appropriated; a description of such unit; and the number of employees in the unit;
(4) Any other relevant facts.

(*d*) If the petition is filed by at least 10 per cent of the employees in the alleged appropriate unit, the petition shall be signed by all of them, or by their duly appointed counsel or attorney-in-fact and shall contain the names of all labor organizations known to them to be existing in the unit.

SEC. 2. *Notice of hearing.*—Notice of hearing of a petition for certification shall be served upon the employer and the union or unions affected. Said notice shall be

posted in at least two of the most conspicuous and prominent places in the employer's establishment, giving the place, date and time of the investigation or hearing.

SEC. 3. *Hearing of petition.*—A petition for certification shall be heard or investigated without unnecessary delay by a judge of the Court or by a hearing examiner duly designated for the purpose. The hearing examiner shall submit his report and recommendation to the proper judge within 15 days from the date the case is submitted for decision.

RULE II

CERTIFICATION ELECTION

SECTION 1. *Order for holding election.*—If there is any reason to doubt the employees' choice or selection of their representative for purposes of collective bargaining, or if at least 10 per cent of the employees in the appropriate unit so request, the Court shall order a certification election.

The order of the Court requiring the holding of a certification election shall, among other things, determine the appropriate collective bargaining unit and the employees eligible to vote.

SEC. 2. *Rules governing conduct of election.*—In the holding of a certification election, the Department of Labor shall observe the conditions stated in the Court order and also the following rules:

(*a*) *Notice of election.*—There shall be posted in at least two of the most conspicuous and prominent places in and about the employer's establishment the notice of election at least ten days prior to the holding of the election.

The notice shall contain the following: (1) Purpose of election, (2) name and address of employer or establishment involved, (3) designation or description of the bargaining unit affected, (4) names of labor unions with members working in the establishment or unit affected, (5) place of election, (6) date and time of election.

(*b*) *Place of election.*—Unless otherwise directed in the Court order, the election shall be held in the plant or establishment affected but the Department of Labor may designate any other place to suit the convenience of the employees affected. The polling place shall be so constructed, arranged and equipped as to ensure secrecy in voting.

(*c*) *Date and time of election.*—The election shall be held on a regular business day within 30 days from the receipt by the Department of Labor of the request of the Court of Industrial Relations.

Voting shall commence at 7:00 a.m. on the day designated for that purpose and end at 7:00 p.m. on the same day. If at 7:00 p.m. there are qualified voters present in the polling place who have not yet voted, the polls shall remain open until after all of them shall have voted.

(*d*) *Supervisor of election.*—The registrar of labor organizations or any other officer designated by the Secretary of Labor (herein referred to as Supervisor) shall supervise the conduct of the election and shall decide on the spot questions that may arise in connection therewith. An interested party may appeal to the Court of Industrial Relations from any action or decision of the Supervisor.

(*e*) *Observers and their rights.*—The employer and each of the labor organizations concerned may designate an equal number of observers, this number to be determined by the Supervisor. These observers are entitled to act as checkers at the voting place and at the counting of ballots, assist in the identification of voters, challenge voters and ballots and otherwise assist the Supervisor in the proper conduct of the voting.

(*f*) *Ballots, ballot box and other election paraphernalia.*—The Department of Labor shall see to it that an appropriate ballot box, ballots and other election paraphernalia are provided. The ballot box shall have 3 locks with their corresponding keys.

(*g*) *Ballots: Form and contents.*—The ballot shall be in such form as to ensure secrecy. It shall contain appropriate instructions to guide the voter. The names of each labor organization eligible to participate in the election shall be printed in large, bold type together with its insignia or symbol, if any, and opposite each name there shall be a square. The ballot shall also contain this statement in large, bold type: I DESIRE NOT TO BE REPRESENTED BY ANY UNION, at the end of which there shall also be provided a square.

If there are two or more unions involved, the ballot shall be substantially in the following form:

DEPARTMENT OF LABOR

OFFICIAL BALLOT

Name of the Establishment:———————————

Address: ———————————————————

1. This is a SECRET ballot. Do NOT SIGN your name.
2. MARK a cross (X) in one square only.

3. If you spoil your ballot, return it to the Supervisor and obtain a new one.

4. Fold your ballot to conceal the mark you have made and deposit it personally in the ballot box.

Which of the following unions do you desire to represent the employees in the unit for collective bargaining purposes?

1. _____ ☐
(Name of Union)

2. _____ ☐
(Name of Union)

3. _____ ☐
(Name of Union)

4. I DESIRE NOT TO BE REPRESENTED BY ANY UNION ☐

If only one union is involved, the question should be: Do you desire to be represented by _____?
(Name of Labor Union)

Under this question, there shall be 2 squares, the word "YES" to be written above one and the word "NO" above the other.

(*h*) *Ballot to be printed or mimeographed.*—The ballot shall be printed, but if for any reason that cannot be done, at least it should be in mimeographed form. Corresponding translation of the contents of the ballot into the native dialect presumably spoken by the majority of the workers affected shall be placed in small type immediately below the English version.

(*i*) *Inspection and closing of ballot box.*—Half an hour before the actual voting commences, the Supervisor and the observers for all parties shall examine the ballot box to be sure that it is empty, and after such examination the ballot box shall be locked with the three keys which shall forthwith be given each to the Supervisor, the observer of the employer and the observer of the labor organization concerned. If there are two or more labor organizations participating in the election, the one to hold the third key shall be determined by lot. The keys shall remain in the possession of the said persons during the entire time of the voting and thereafter until all controversies regarding the result of the election shall have been definitely determined.

(*j*) *Marking and counting of ballots.*—The voter m[ust] make a cross (X) in the square opposite the nam[e] the union of his choice. If there is only one unio[n] volved, he must place the mark in one of the two squ[ares] indicating "Yes" or "No".

If the ballot is defaced, torn or marked in such a manner that it is not understandable, it shall be considered spoiled. If the voter inadvertently spoils a ballot, he shall return it to the Supervisor who shall deliver to him another ballot.

As soon as the polls are closed, the votes shall be counted and tabulated by the Supervisor, the observers being given full freedom to read the ballots and witness the tabulation. Upon the conclusion of the counting, the Supervisor shall issue to the observers present a certificate of the result of the election. The ballots, the tally sheets, the certificate of election result and all other papers used in connection with the voting shall be placed in a sealed envelope signed on the outside by the Supervisor and the observers present, this envelope to remain closed and sealed and be in the custody of the Supervisor until after the Court of Industrial Relations shall have made finally the certification of the winning union as the exclusive representative of the employees of the unit involved for collective bargaining purposes.

(*k*) *Challenging of votes.*—An observer shall be entitled to challenge, *for good cause,* the vote of anyone of the applicant voters. The challenge must be made before the voter has deposited the ballot in the ballot box. Once a ballot is cast unchallenged, it shall be considered accepted as valid by all parties, unless subsequent information should be made available to the Court indicating serious irregularity of such demension that the outcome of the election would be otherwise than indicated by the vote as counted. The decision of any challenge rests with the Supervisor and may be reviewed only by the Court

Any observer may insist that his challenge of any voter or ballot or his objection to any decision made or procedure followed by the Supervisor be reduced to writing. The Supervisor, however, may refuse to entertain or to record any challenge which is clearly capricious or malicious.

If any party disagrees with the ruling of the Supervisor concerning a challenge vote, the latter shall place the ballot in question in an envelope which is immediately sealed in front of the voter and the observers, and th voter's name is written outside the envelope. If the t of the election would not be affected by the inclusion exclusion of a challenged vote, such vote shall be disarded. If the result would be different, then the matter ld be left to the Court of Industrial Relations for mination.

c. 3. *Contest of election.*—In case of a contested ion, the contestant shall, within 72 hours after the sing of the election, file with the Court of Industrial

Relations a verified petition setting forth the grounds for contesting same.

SEC. 4. *Runoff election.*—When an election in which the ballot provided for not less than 3 choices results in no choice receiving a majority of the valid ballots cast and no objections or challenges have been presented which, if sustained, might change the result, the Supervisor shall conduct a runoff election without further order of the Court.

The ballot in the runoff election shall provide for selection between the two choices receiving the largest and second largest number of votes.

SEC. 5. *Violation as contempt.*—Any violation of these rules shall be considered contempt of Court and punished accordingly.

Approved, September 4, 1953.

ARSENIO C. ROLDAN
Presiding Judge

MODESTO CASTILLO
Associate Judge

JOSE S. BAUTISTA
Associate Judge

JUAN L. LANTING
Associate Judge

V. JIMENEZ YANSON
Associate Judge

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